RESUMING 10.25 A.M.

MR SMITH: The programme for today is, first of all, the previous witness, Michael Jolly. Some matters that were left unresolved in his evidence will be hopefully resolved this morning. And then Frank Tuckwell, who is the Director of Signal Point down on the river at Goolwa. That will be all the evidence this morning. I know I have said this before, but I would expect that that might mean we will have some time spare this morning. This afternoon is Rodney Hook, who is an officer of the Department of Planning & Development. And that will be all the evidence for today. Tomorrow is Mr Samuel Jacobs QC in the morning and David Rathman, the CEO of the Department of State Aboriginal Affairs. So, that is the programme for the balance of that week.

So, I recall to the witness box Michael Jolly.

WITNESS MICHAEL GEORGE WILLIAM JOLLY RETURNS TO WITNESS BOX

COMSR: Is this necessary to reswear the witness?

MR SMITH: No, I will just remind the witness that he is on oath.

FURTHER EXAMINATION BY MR SMITH CONTINUING

Q. I just remind you that you are on oath.

A. Yes.

Q. On the last occasion you gave evidence we discussed a fire on Hindmarsh Island and, on that occasion, you met Sarah Milera and Doreen Kartinyeri. Do you recall telling us about that.
A. Yes.
Q. There was some, not exactly debate, but we, in the course of your evidence, took sometime to try and pinpoint the date of that fire. I think you have made some further enquiries about that, have you not.
A. Yes, I have. It is my understanding the date was 25 November 1993.
Q. Was that the occasion where there were two fires, one following the other.
A. Yes, on the 25th there was a fire at a Mr Clegg's property on Hindmarsh Island and on the following day, on the 26th, there was a fire at Mr Crowhurst's property on Hindmarsh Island.
Q. On that first day, the 25th, you recounted to us on the last occasion how you went down to the ferry and you there met Sarah Milera for the first time, is that right.
A. That's correct.
Q. I take you back to that meeting. Had you met Sarah Milera ever before.
A. No.
Q. Can you tell us what passed between you and her and how it was that you met her.
A. Several of the people who attended the fire on Hindmarsh Island were quite unhappy about the ferry holding up the fire appliances and we - the picketers had made their presence very, very obvious down at the ferry, much to the disgust of the people who wanted the bridge on Hindmarsh Island. And we were quite unhappy about the hold up of the fire appliances coming to Hindmarsh Island, so we decided that we would go down and confront them and ask them what they thought they were about.
Q. Was it the case, if you know, that there was some impediment to fire appliances getting on to the ferry and getting across to the island caused by the picketers.
A. Not only the picketers. I think it was actually a day - a scheduled maintenance day on that day and the ferry
was actually I understand out of commission at the time that the fire siren was actually sounded. And I think it was hurriedly brought back into service. And we just went down to make a point of why demonstrate against a Bridge that perhaps could save lives or property in the time of an emergency?

Q. You are not inferring that these people were holding up the fire appliances or anything.

A. No, not at all, no.

Q. You went down there yourself.

A. Yes, I did.

Q. Are we talking about the Goolwa side of the ferry -

A. Yes.

Q. Or the Hindmarsh Island side.

A. No, the Goolwa side, that's right.

Q. You there met Sarah Milera and Doreen Kartinyeri. Tell us about that.

A. What happened originally was that there was quite a confrontation against the - with the anti bridge people who seemed to have materialised down I think from Signal Point. And there was quite a deal of shouting and waving of arms and, after that had subsided somewhat, I went back to the rear of the crowd and there were two Aboriginal ladies standing by the right-hand side of the ferry approach.

Q. You spoke to them.

A. Yes, I made a point of speaking to them, because I had heard that there was a move afoot to bring the Aboriginal influence in to stopping the bridge.

Q. Tell us how you heard about that.

A. I should say just gossip around the local area, that when all else fails the Aboriginal question is quite usually brought up.

Q. You spoke to these two women. First of all, there were some introductions, were there. Tell us what happened.

A. Yes, I was interested to know who they were and where they were from and I approached them and said `Hello, how are you? Who are you?' I made a direct approach to
them. And Mrs Milera said `I am Sarah Milera and this
is my Auntie Doreen.' And she said `Doreen Kartinyeri'
Q. And your response to that.
A. I said to her `Kropinyeri?' I said `Yes, I am very
familiar with your uncle, Uncle Dick.' And to which she
said `No, not Kropinyeri, Kartinyeri,'
Q. You have I think in the months that followed this
incident seen Sarah Milera time and time again, is that
right.
A. I have probably only seen her once I think when she came
to our property with Neale Draper. I think that is the
- I may have seen her in the car crossing the ferry, but
that would be it. I have not spoken to her since, only
on those two occasions.
Q. She is, indeed, the Sarah Milera whom we see in The
Advertiser, for instance, and on -
A. Absolutely.
Q. And Doreen Kartinyeri, or this person that you thought
might have been Doreen Kropinyeri, at first, do you
confirm that it is the Doreen Kartinyeri that has been
prominent in the media talking about this dispute.
A. Yes, I do.
Q. You have no doubt about that.
A. I have no doubt about it.
Q. You told us about the conversation that then ensued
between these ladies about the island.
A. Yes.
Q. And I won't go back over that.
A. No.
Q. Can I just take up then that question of you mentioning
to Doreen and Sarah that you used to know Dick
Kropinyeri.
A. Kropinyeri, yes.
Q. You were born down there on Hindmarsh Island or nearby.
A. My father was born there and I was born there.
Q. Your father's Christian names were.
A. Jeffery Lancelot Jolly.
Q. And his father before him, was he -
A. Came there as a young man, working on Hindmarsh Island.
Q. Therefore did your grandfather take up land holdings on Hindmarsh Island.
A. No, he worked for Rankines.
Q. But your father did, Jeffrey.
A. Yes.
Q. You inherited that land, did you.
A. Yes.
Q. And, what, have you made purchases of your own.
A. Yes.
Q. To the extent that, as at the time we are talking about, you owned, how much land.
A. 920 acres.
Q. Did you go to school locally.
A. I went to school on Hindmarsh Island.
Q. High school.
A. Victor Harbor. Excuse me, I will just qualify that.
They closed the school on Hindmarsh Island in grade 5, when I was in grade 5, and we then went to Goolwa to complete the primary school education, yes.
Q. When you were a boy growing up on the island and even to the point where you were going to high school in Victor Harbor, did you come to know the Aboriginal people living on the island and on the mainland.
A. Yes, the McHugh family lived on a neighbouring farm and Mrs McHugh quite often - my mother actually helped Mrs McHugh quite often with food and that for the children.
Q. Is that the family of John McHughes that has lived most of his life in this area and in recent times at Goolwa.
A. Yes.
Q. And played football.
A. Yes.
Q. For the Goolwa football team.
A. Yes.
Q. What of other families on the island or in Goolwa. Can you tell us -
A. I remember no other families on Hindmarsh Island, other
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than the McHugh family.

Q. You mean, no other Aboriginal family.
A. Yes, I am sorry, yes, no other Aboriginal families on
Hindmarsh Island, other than the McHugh family. In my
memory. But there were several families of local
Aborigines in Goolwa, who I became friendly with when I
went to Goolwa school.

Q. You spoke of your father and Dick Kropinyeri. In what
way did your father have a relationship, if you like,
with Dick Kropinyeri.
A. Dad worked as a boy for Rankines and his father worked
for Rankines. They both worked for Rankines together.
And Dick Kropinyeri, Kropinyeri, was a regular shearer
at Rankines and they became quite friendly with Dick,
during that time.
Q. To the extent I think that they went off into the Far
North of South Australia shearing in the shearing season
together.
A. During the depression my father went north for work,
Broken Hill, where he came across Dick Kropinyeri. And
all manner of people were up there, at that time, from
Sydney and from everywhere, seeking work. And it was a
pretty rough environment and Dick sort of shielded my
father from quite a bit of that influence, I could say.
Q. So, when there was trouble, he helped your father.
A. He kept him out of trouble.
Q. Kept him out of trouble.
A. Yes.
Q. Did that mean then that somewhat of a lasting
relationship built up between your father and Dick
Kropinyeri.
A. They were very close. Whenever Dick was travelling
through Hindmarsh Island on his way to Goolwa he used to
come through the - I would suspect, because I was only a
child, at the time, he would come through from Raukkan
and travel through the islands, Hindmarsh Island, and go
up to Goolwa.

Q. When he did that, would he call on your parents.
A. He always called when he came through.

Q. And what would happen.
A. Dad would always have him in for tea. And, next day, he
would sort of travel on, yes.

Q. Is it the case that, as you grew up on the island and in
the Goolwa area and when you were at high school at
Victor Harbor, you became close and friendly with a
number of Aboriginal people from the area, is that
right.
A. Yes.

Q. As did your family.
A. Dad and mum were particularly friendly with Dick, as I
mentioned, Dick Kropinyeri, and they were always very
friendly with Mr and Mrs McHugh, who they sought to help
whenever they could. Dad was also friendly with Ephie
Tripp.

Q. Another Aboriginal family.
A. Yes, and I understand - I can't think of his name - no,
I can't think of the other chap's name that was at
Goolwa that he was quite friendly with too.

Q. Not Sumner, or a name like that.
A. He knew and always spoke to the Sumners. And Charlie
Godfrey. I used to work for Charlie Godfrey when I was
a boy. He was an Aboriginal person.

Q. In the course then of your contact with the Aboriginal
people of the area, from time to time, did you or did
you not sit down and talk about history and matters
relating to the culture of the Aboriginal people.
A. Somewhat, but not in great depth, no.

Q. Did you ever hear, in your lifetime, up until recent
years, anything secret and sacred about the island.
A. No, I didn't.

Q. Is the first you ever heard of such a concept, if you
like, in connection with this dispute, sometime after
November 1993.
A. Could I have a repeat of that question?
Q. Yes, is the first you have heard of anything secret and sacred relating to Hindmarsh Island or its environs, was it, indeed, as this Hindmarsh Island bridge dispute unfolded, after November and sometime after November 1993.

A. Yes, that was the first time I heard of it.

Q. In your evidence, on the last occasion, we touched upon your contact with the archeologist, Government archeologist, Dr Neale Draper. Can you remember telling us about that.

A. Yes.

Q. You told us that Neale Draper initially was friendly to you and then his mood changed and he betrayed to you that he was, indeed, opposed to the bridge construction.

A. Yes.

Q. Is that correct.

A. Yes.

Q. You also told us that Draper had had some contact before with your family and you mentioned your Aunt Pearl in that connection. Do you remember that.

A. Yes.

Q. Can you tell us what contact your family then had. What were the details of this contact with Mr Draper.

A. As I understand it, Neale Draper was the Government archaeologist concerned with - working from the Aboriginal Heritage Branch. He was the archaeologist concerned with the Cape Jervis Tavern development, investigating the Cape Jervis Tavern development.

Q. Did you have relatives living or working or operating a business in the Cape Jervis area.


Q. You knew of this development, did you, the proposed development for Cape Jervis.

A. Yes, it was a great worry, to both my cousin and my auntie, that this development would proceed and maybe to - may proceed and would take quite a deal of business from their established operation there.
Q. This was some sort of hospitality development on the foreshore at Cape Jervis, is that right.
A. I understand it was a licenced restaurant jumping off type place for the ferry going to Kangaroo Island.
Q. Including a motel, I think, is that right.
A. I am not sure about the motel facility, no.
Q. Mr Draper became involved in that, to your knowledge, did he not.
A. Yes.
Q. You mentioned your aunt. Is that your very elderly Aunt Pearl.
A. Yes.
Q. What was her involvement.
A. She was in continual liaison or continual touch with Neale Draper over developments in this project. What was happening. What stage the development project was reaching.
MR MEYER: Is she the mother of the cousin?
WITNESS: Yes.
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Q. She is the mother of Daphne Wilson, the co-owner of the tavern, the existing tavern at Cape Jervis.
A. Yes.
Q. So the Aboriginal Heritage Branch became involved through Mr Draper in that development.
A. Yes.
Q. And the development did not go ahead, to put it shortly, is that right.
A. Yes, that's correct.
Q. Therefore, when Neale Draper came onto the island, and onto your property in particular, there was some mention of this matter, was there, and his connection with your Auntie Pearl, is that the case.
A. No. I wouldn't say there was mention of the Cape Jervis matter. I couldn't go so far as to say that, but he came as a friend of Auntie Pearl. He had visited her home on several occasions, and they were both well known - both he and his wife were well known to Auntie Pearl.
Q. On the last occasion you gave evidence, on p.2,993 you mentioned that Draper had rung you with some exciting news over a find he had made. Do you remember that.
A. Yes, I do.
Q. After discussing that, and it is in the evidence, you made a comment to him, according to what you told us last time, 'You are trying hard now, Neale', or some words to that effect.
A. Yes, I did, yes.
Q. What did you mean by that.
A. Well, by that stage -

OBJECTION Mr Kenny objects.
MR KENNY: That question was in fact asked on the last occasion on p.2,993, 'What did you mean by that' and it is answered by this witness. I am just wondering a bit about the point of a lot of -
MR SMITH: I am asking it again.
COMSR: You felt that perhaps the answer -
MR SMITH: Yes. My reason for asking it again was I want to elicit some more information from Mr Jolly on that topic.

QUESTION ALLOWED

MR JOLLY XN (MR SMITH)

XN

A. To the best of my recollection, he said - I said to him `You're trying hard now, Neale'. What I meant by that was, by that stage it had become quite obvious that he was against - he had become unfriendly, and was really trying to connect a lot of places on Hindmarsh Island with Aboriginal influence, to the detriment of any further development taking place.

Q. So that is the extent of what you meant.

A. He was quite obvious in his intent.

Q. In your statement, which is an exhibit, you make a point about the Goolwa Rate Payers Association. You were a member of the Goolwa Rate Payers Association, were you.

A. Yes.

Q. You made an objection which you allude to in your statement, which wasn't explored in evidence, to something happening at Signal Point. Do you remember what that was, and what the basis of your objection was.

A. We were told by someone that was working there on a voluntary basis that school children were being handed out pamphlets, et cetera, with - I will call it - propaganda against the building of the bridge, and, as a taxpayer in this country, I felt it was wrong that a taxpayer-funded institution such as Signal Point should be aligned against one side of the community and their wishes.

Q. Your objection was minuted, I think, and the dissemination of that information from Signal Point stopped. Is that right.

A. I'm not sure whether it was minuted or not. It was certainly taken aboard. A lady there, who I cannot - I don't know her name - apologised and said that in future nothing of this sort would take - any further sort of propaganda would not be forthcoming from Signal Point.
Q. On the last occasion, too, you gave evidence as to your membership of the Coorong Consultative Committee in 1988 and 1989.
A. Yes.
Q. You also told us that you tabled, at a particular meeting of that committee, plans relating to your proposed development and also the Chapmans' development. Do you remember telling us that.
A. Yes.
Q. I think you have had an opportunity to search the minutes which are MFI 184, and you actually located the actual minute when that occurred, is that right.
A. Yes.
Q. Looking at MFI 184, do you recognise there the minute of 28 July 1989.
A. Yes, I do.
Q. Can you say then that it was in fact on 28 July 1989 that you tabled in that committee the development proposals of yourself and the Chapmans in relation to the island.
A. Yes, I can.
Q. You are not recorded -
A. No, but there are several instances there, or a couple of instances there that I can point out where I am not recorded as being present, yet my name appears in the minutes as having input in the minutes. So I think it might be a clerical error that I'm not there.
Q. I think I have misled you a bit there, too.
A. 3 July.
Q. The committee meeting was actually on 3 July, wasn't it.
A. Yes.
Q. Rather than the 28th.
A. Yes, we were looking at that number (INDICATES), yes.
MR SMITH: That can still be left as marked for identification, subject to other people perusing it.
FURTHER CROSS-EXAMINATION BY MY MEYER

Q. Mr Jolly, how old are you.
A. I'm 52.

Q. Just to get this into a time span, that means you were born toward the end of World War II.
A. 1943, yes.

Q. Your father bought land on Hindmarsh Island. Was that before the war.
A. No, after the war. He bought that land in 1949.

Q. Was your grandfather living on Hindmarsh Island when he was working there.
A. Yes.

Q. Did your dad live on Hindmarsh Island.
A. Yes.

Q. I want you to assume that Sarah Milera is about 49 years of age. She appears to have suggested, at least at some stage in a newspaper article, about trees on Hindmarsh Island. The article and I am reading from `The Bulletin' dated 28 March 1995. The article says `Milera' - and that is referring to Sarah Milera - `now 49, can remember being able to drink the fresh water around the island. She can recall the island being covered with trees, most of which have gone, allowing salt levels to increase'. So Sarah Milera is about your age. A couple of years younger. From your knowledge, and from discussions you have had with your father, when you were a boy was Hindmarsh Island covered with trees.
A. Not at all. There is more trees there now than there were when I was a boy.

Q. From your knowledge and what you have gleaned from your family and friends, the farming type history of Hindmarsh Island, were there trees previously on Hindmarsh Island.
A. I understand there was. From what I have read, there was low coastal type heath land on the lower part of Hindmarsh Island, on the southern part of Hindmarsh Island. On the northern part there was she-oak scrubs. They have disappeared to a large extent because of the
large sheep population that was held in the early days on Hindmarsh Island.

Q. When you say `early days', what are you referring to, what times.
A. Possibly 1860s.
Q. So you are not saying you saw them in your time.
A. Not at all.

Q. I think it is a matter of pastoral history in South Australia there were huge sheep numbers before the turn of the century, weren't there.
A. Yes, particularly Mr Rankine.
Q. And you are including in that, big sheep numbers existed on Hindmarsh Island.
A. Yes, to the extent, as I understand, the land started to blow - erode and blow. Over-stocking.

Q. On the day when you went and introduced yourself to the two ladies down at the ferry, on that occasion, was that the first time you had seen either of them.
A. Yes.

Q. Mr Jolly, you have told us that you were close with a number of Aboriginal people when you went through school.
A. Yes.
Q. Can you remember who those people were.
A. It would have been Darryl and Doug Sumner, Hector and Herb Rigney, Herbert Rigney senior, Charlie Godfrey and his son. Like I knew these people well, but I didn't -
Q. You weren't actually - they didn't sort of come over to your place on a regular basis and play with you after school and things like that. Is that what you are trying to tell us.
A. No, no.
Q. You just knew them because they went to school with you.
A. Yes, and we played football and sport and generally, like country kids do, hang around together, but not particularly come to my house or -

Q. So you knew them by virtue of the fact that you went to a school that presumably was fairly small, you played sport with them, you socialised with them.

A. Yes, that's correct.

Q. But you are not saying there was some special relationship between you.

A. No.

Q. Which school are we talking about at this stage.

A. That would be Goolwa School.

Q. So that was between grade 6 and grade 7.

A. Yes, and into high school.

Q. At Victor Harbor.

A. At Victor Harbor.

Q. Presumably that was a bigger school, Victor Harbor, the high school.

A. I'm sorry.

Q. Was the Victor Harbor High School a bigger school than the Goolwa School.

A. Yes, yes.

Q. Did you have less contact with them when you went to high school.

A. Yes, right through high school, and after - up until probably about 20 years old, or 18 years old, 20 years old, played football with old Herb Rigney, and he was called Uncle Herb to all the boys in the football club.

Q. That was about 30 years ago.

A. Yes.

Q. In the last 30 years, you, I take it, haven't had any close contact with these people.

A. No, I haven't. Only John McHugh, and Gordon, who was my best friend when I was a little kid. Gordon is John's younger brother. He has just come back to Goolwa, but
they seemed to drift away in their teenage years and went and found jobs.

Q. What happened to their families, did they remain in Goolwa.
A. The McHugh family remained in Goolwa, yes. The other families seemed to dissipate away.

Q. You are not sure what happened to them or where they went.
A. I asked Doug Milera what had happened to them when I saw him when they came over with Neale Draper, and he told me that they had gone to work for the Electricity Trust on Kangaroo Island, and some of them now hold quite high positions in the Aboriginal groups at Murray Bridge, I understand.

Q. Did other Aboriginal families come to take their place at Goolwa, when you say that during their teenage years they and their families left, the ones you knew.
A. Yes. Mainly - just about all of the Aboriginal families left, except the McHugh family and the descendants of the McHugh family. They were virtually the only Aboriginals that - well, Aboriginal people that I know of that inhabited Goolwa in the last 30 years.

Q. John McHugh, I understand you know him, but would you describe him as a friend.
A. Yes, he is a good friend.

Q. How often do you see him.
A. Possibly - very hard to say, but I probably saw him five or six times a year, but our friendship comes from a long way back, so I mean -

Q. I take it you would run into him around Goolwa.
A. I'm sorry.
contact. Has he been over to your place in the last five to ten years.
A. No.
Q. Have you been to his.
A. No.
Q. Dr Draper, I take it you were fairly friendly with him at the start as well.
A. Yes.
Q. But I imagine you made it fairly clear to him that you were in favour of the bridge.
A. I made a point - I will make a point to anyone that I am in favour of the bridge, but that doesn't mean to say - I am quite friendly with a number of anti-bridge people.
Q. I am only talking about Dr Draper.
A. Yes.
Q. I take it, from your comment about the finds on your property, and the comments you have made, that you don't think that there is terribly much in the way of Aboriginal significance on the island, is that correct.
A. No. On the contrary. I think there is quite a deal of Aboriginal significance on Hindmarsh Island. It just happens not to be on my property.
MR SMITH CALLS
LEON FRANK TUCKWELL SWORN
EXAMINATION BY MR SMITH
Q. I think you're a Counsellor with the District Council of Goolwa and Port Elliot.
A. That's correct, I'm a Ward Counsellor for Goolwa and Hindmarsh Island.
Q. For how long have you been a counsellor.
A. A half term, and I was re-elected on this term, so that would make it almost three years.
Q. Have you been a long-time resident of the Goolwa/Hindmarsh Island area, or not so.
A. Yes, I was locally born and I'm a member of a family - I think my son was fifth generation.
Q. So where have you lived, then.
A. In Goolwa.
Q. I think your current position, apart from being a Ward Counsellor with the District Council, you are, I think, Director of Signal Point.
A. That's correct.
Q. Would you tell us what is the Signal Point operation and the nature of it.
A. It's a bicentenary commemorative project. It was funded jointly by the Commonwealth and State Governments and the District Council of Port Elliot and Goolwa and, on its opening, it was handed over into the possession of the District Council of Port Elliot and Goolwa, and is currently managed by a community-based body. Its role?
Q. Yes, its role.
A. Its role is to interpret the Murray Darling Basin.
Q. That has an Aboriginal content to it too, I think, is that right.
A. Yes, there are elements of Aboriginal culture within the displays.
Q. But it's not exclusively the province of Signal Point to be interpretive of Aboriginal culture.
A. No.
Q. I think in November of 1993, you obtained a special
appointment from the council, did you not.
A. That's correct.
Q. What was that exactly.
A. I became the liaison person between the District Council
of Port Elliot and Goolwa and the Ngarrindjeri community
through the lower Murray Aboriginal Heritage Committee.
Q. Was that or not because by November 1993, there was
vigorous Aboriginal interest in the developments that
were proposed for Hindmarsh Island and, in particular,
the bridge.
A. I believe that was so.
Q. Was your appointment designed - no pun intended - to
bridge the gap between the Aboriginal interests and
perhaps the community or council interests.
A. I'm not quite sure why my fellow counsellors actually
elected me into that position, but I would assume that
was the case.
Q. I will come to it in more detail in a moment but, in
that connection, you attended joint meetings between
Aboriginal representatives of, for instance, the Lower
Murray Aboriginal Heritage Committee and the council,
did you not.
A. Yes, and I attempted to meet with them wherever I
possibly could.
Q. Can I ask you a general question about your attitude to
the bridge, first of all: Are you in favour of the
bridge or against it.
A. I'd have to qualify the answer, of course, so it can be
clearly understood. It's true that I was not in favour
of the bridge, but not the bridge per se, I opposed the
economic arrangements for the bridge, and I made that
quite clear in council, and my objection is that I
believe the State should have built, financed and built
the bridge, and that the District Council of Port Elliot
and Goolwa should not have been involved with the
financial arrangements.
Q. Is it not the case, however, at the end of all of the
negotiations, that the arrangement, the financial
involvement of the council, was to maintain the bridge rather than to finance its construction.
A. Yes. My reasoning was that the State was providing the ferry service, the State should replace that with a bridge, it should be a State obligation, State financed, the road to the bridge from - the main road to the bridge and over the bridge should have been a State responsibility, and that was my position.

COMSR
Q. I wonder if I can clarify this: So, at the end of the day, are you saying you were in favour of the bridge, subject to the financial arrangements being those that you considered were prudent as far as the council was concerned.
A. Yes, I was.

XN
Q. I think you'd like to emphasise that that is your personal view as opposed to the council's view.
A. Yes. I must admit that the council's view, apart from that, was that the bridge should be built with their involvement.
Q. I take it, bearing in mind that you've always lived in the Goolwa area, haven't you.
A. Yes.
Q. Or worked in the Goolwa area, by 1993 is it the case that the bridge proposal was years old. In other words, that it was well-known in the area.
A. Yes.
Q. That there were moves to build a bridge from Hindmarsh Island to Goolwa.
A. Yes.
Q. From, I think, 1987 onward, the push to construct a bridge gathered momentum, and was in the public arena in a vigorous way. Would you agree with that.
A. There were suggestions on odd occasions, I'm not quite sure whether they were vigorous to start, because I recall that at one stage even the Chapman family said that they would prefer the marinas without the bridge.
I think that was very early in the piece but, yes, it is true that the bridge has been canvassed for a long time.

Q. The media clippings, which I can show you, featured pictures of the bridge as early as 1988.

A. That's right.

Q. In about October of 1993, the protest movement against the bridge had, would you agree with this general proposition, gathered momentum.

A. Yes.

Q. In October of 1993, construction work was actually stopped by a protest at the site, was it not.

A. Yes.

Q. At Amelia Park.

A. Yes.

Q. Is it the case that it was at this time that Aboriginal opposition to the bridge first emerged.

A. Yes.

Q. There was a meeting, I think, on 8 October 1993, in Centennial Hall in Goolwa.

A. Yes.

Q. Did you attend that meeting.

A. Yes.

Q. I'll see if I can show you a flier on that, just to make sure. Perhaps I can ask you a question about it: There was a meeting on the 8th, and I think another meeting or another picnic - there was a picnic following that on 23 October.

A. Yes.

Q. Did you go to the picnic too.

A. Yes, I certainly did.

Q. By then, you hadn't been appointed the liaison officer, had you, but you took an interest anyway.

A. Yes.

Q. The first meeting on 8 October, the meeting was in effect supported by the Friends of Hindmarsh Island, a group which called themselves then the Friends of Hindmarsh Island.

A. Yes.
Q. They were actually an opposition group, a group which
opposed the bridge, and that opposition group later
became known as the Friends of Goolwa and Kumarangk, is
that right, Hindmarsh Island.
A. Yes, that’s correct.
Q. Then we have the Conservation Council of South Australia
supporting that meeting, and the opposition, talking of
the meeting -
A. I’m not quite sure exactly who were there, because they
were early days and I was as interested as everybody
else in my Ward to see those kinds of things, and I
wasn’t quite sure exactly who made it up, but I do
believe that they were there, yes.
Q. Can you tell us or not whether, on 8 October, this was
the first appearance of the Lower Murray Aboriginal
Heritage Committee members at such a gathering.
A. Well, to my - yes, to my knowledge, yes. I’m not sure
whether they had been there or not.
Q. Who do you remember being there at that meeting at
Centennial Hall on 8 October from the Lower Murray
Aboriginal Heritage Committee.
A. No, at that stage I wouldn’t have known them very well,
so I really couldn’t even hazard a guess as to who would
have been there.
Q. Can you assist to this extent: At that meeting, were
there some Aboriginal men in attendance.
A. Yes, there would have been.
Q. It’s been suggested to us that Henry Rankine and George
Trevorrow were there. Do you have a memory of that.
A. This was at the Centennial -
Q. At the Centennial Hall.
A. They could have been.
COMSR
Q. You can’t say one way or the other, is that what you
say.
A. I have the problem that there was a crowd of people
there, and so recognising people in a crowd, because I
would have come at some time and gone and not socialised
- it wasn't my practice to socialise at those sorts of
meetings - but it could quite possibly, they could quite
possibly have been there.

Q. There has been evidence that at that meeting, Henry
Rankine -

MR KENNY: Rather than lead the witness off, this
witness has no idea whether Henry Rankin was there or
not. The best he can say is that he could have been or
not. It's quite clear that he doesn't know. If my
learned friend is going to lead him as to what Henry
Rankine was supposed to have said, I object. If he
wishes to find out what Henry Rankine might have said,
he should ask him what he did or didn't say.

COMSR: We are not exactly in a trial situation.

MR KENNY: I appreciate that, but I suggest that is
leading the witness.

COMSR: Counsel assisting can lead a witness
through statements.

MR KENNY: I quite agree, but we have no statement
on this witness, I don't know what this witness'
knowledge is, and it appears to me that, to the best of
his knowledge, he did not know Henry Rankine, and he
does not know whether he was there.

COMSR: The witness will tell me, I'm quite
sure.

WITNESS: May I get some direction at the moment?
I'm a little confused.

MR SMITH: Just hang on. Can I ask that question
please?

COMSR: Look -

MR KENNY: I'm trying to object before there is any
further leading.

COMSR: I know, but we're not really in a
situation where you can object to leading questions put
to the witness, but I take -
MR KENNY: I haven't been objecting to leading questions, this is sort of going a little further than what I would call reasonable leading. This witness has been led pretty well all the way through, and I haven't taken objection, but I mean if my friend is going to put to him now that Henry Rankine said something, then I object, because the witness said he doesn't know whether he was there.

COMSR: Exactly, and I'm sure the witness will be able to tell me as much. There are some witnesses, of course, that one mightn't think would be able to do so, but with this witness, I don't think there will be a problem in any event, but it all goes to the weight that I attach to those things.

MR KENNY: Certainly.

MR SMITH: Perhaps I will withdraw the question and start again.

COMSR: By now I'm sure the witness would have forgotten it.

Q. On the stage there were an array of persons who actually spoke and answered questions.

A. Yes, I now recall.

Q. Were there any Aboriginal persons amongst those on the stage who spoke up and answered questions, for instance.

A. If this was the meeting at which the Leader of the Opposition, the then Leader of the Opposition attended, then I do recall because - I haven't got my diary with me, I'm not quite sure which of those meetings it was, but if it was the meeting at which the present Premier, or the then Leader of the Opposition was present, yes, Henry Rankine was present at that meeting and spoke.

Q. I'm looking at document 49 of Exhibit 178, October 1993, a flier `Motions Passed by Goolwa Public Meeting 8 October 1993'. Looking at that document, that's details of the motions passed at the meeting on Friday 8 October.

A. Yes.
Q. Does that refresh your memory as to the meeting.
A. Yes, it certainly does.
Q. It does assert, doesn't it, that George Trevorrow and Henry Rankine were present for the Lower Murray Aboriginal Heritage Committee.
A. Yes.
Q. Can you remember Henry Rankine speaking, and I'm really focusing, rather than lead you too much, on a question asked of Henry Rankine about any Aboriginal significance of areas near the bridge, the proposed bridge construction.
A. No, I really can't, I can't recall that kind of detail.
Q. Can I tell you what is said and see if that refreshes your memory.

MR KENNY: The witness has told us his answer. I don't mind leading, but this is now telling him and then saying something like 'Does this refresh your memory'.

MR SMITH: What on earth is wrong with that?

MR KENNY: He is telling the witness what to say. He is overstepping the boundary by telling the witness what to say.

COMSR: He's not telling the witness at all, he's telling him what's been said and seeing - if it doesn't refresh his memory, if he has no recollection of it at all, he will just say so.

MR KENNY: Certainly.

MR SMITH: Lest it be misunderstood what is happening here, this is present evidence in this enquiry. This witness was at that meeting. He may at this moment not remember anything about it, and I am perfectly at liberty to explore that with him from existing evidence.

Q. Now it's been said that at that meeting Henry Rankine was asked a question about sites of Aboriginal significance in the area of the proposed construction of
the bridge, and his answer was that he didn't know of any, but he was sure that some could be found, or words to that effect. Do you remember any such exchange taking place at that meeting.

CONTINUED
A. No, honestly I can't. I can't recall that kind of detail.

Q. It was subsequent to that meeting, on 8 October, that the protest at Amelia Park occurred and construction work in respect of the bridge was stopped, that's correct, isn't it.

A. That's correct.

Q. Just to put it in perspective.

A. Yes.

Q. Is it not also correct that the next event was, or that, prior to that event, there was the picnic at Amelia Park, is that right.

A. That's right.

Q. It was prior to the stoppage of work.

A. That's correct.

Q. I think it was on that occasion that you first meet the Mileras, is that right.

A. It was the first time I had met Doug. I had met Sarah earlier, on one of the registered sites, which was just down beyond Amelia Park.

COMSR: We won't go into details.

Q. Are we at a time, and I don't want to confuse you with the dates, are we at a time where construction work had been stopped in part as a result of protests. That is, when you first met Sarah.

A. No, that would have been subsequent to the stoppage.

MR MEYER: The question is, did he meet Sarah before the picnic, isn't it?

MR SMITH: Yes, I will ask that.

Q. Did you meet Sarah before the picnic at Amelia Park, which we know was 23 October.

A. Yes, I would have met her subsequent to that, because I met Doug at that meeting. So, the timing is I met Sarah prior to that, at the sites.

COMSR

Q. I am not quite clear now. Can you tell me, as best you
3045

KC 39D

L.F. TUCKWELL XN (MR SMITH)

can, when you first met Sarah Milera in relation to
either that meeting that you have been asked about or
the picnic meeting or some other occasion. I have just
lost track of when you say that first meeting was.
A. The picnic meeting wouldn't have been the first time I
would have met Sarah, but the first time I would have
met Doug.

XN

Q. I will get those dates straight now in everybody's mind.
On 29 October there was an article in The Advertiser,
which is document 52 in Exhibit 178, recording that, on
the day before the 28th, work on the bridge had been
stopped, as a result of protests.
A. Right.
Q. Have a look at it.
A. Yes.
Q. I am showing you document 52 to Exhibit 178.
A. Right, yes.
Q. Is that correct, that work was brought to a halt on the
28th. You would agree with that. Just to get the date
straight.
A. Without consulting my diary, yes, I believe so.
Q. And that the picnic at Amelia Park was on Saturday, 23
October. (NOT ANSWERED)
Q. Again, I will show you a document, document 49 of
Exhibit 178.
A. Right.
Q. You would be happy with that sequence of dates.
A. Yes.
Q. Given that, so the picnic at Amelia Park for the Ferry
Friendly Folk, on 23 October, the actual stoppage of
bridge construction work on the 29th.
A. Right.
Q. When was it that you met Sarah Milera, for the first
time.
A. I would have to say that it was prior to that.
Q. Prior to the 23rd.
A. Yes.
Q.  Shortly prior to it.
A.  Shortly prior to it.
Q.  It is the case that you have become quite friendly with
Sarah Milera, in the ensuing time.
A.  With all members of the committee.
Q.  In fact, Sarah and Doug Milera have an involvement in
Signal Point, don’t they.
A.  That’s correct. They are members of the Management
Committee.
Q.  Are they still members of the Management Committee.
A.  Yes.
Q.  When were they made members of the Management Committee,
do you know.
A.  The appointment was in January of this year.
Q.  Does that bring with it an emolument of some sort.
A.  Not at all.
Q.  Doesn’t it.
A.  No, they are honorary positions.
Q.  Did Doug Milera occasionally borrow money from you or
borrow money at all from you.
A.  As a private citizen?
Q.  Yes, as a private citizen.
A.  In no respect in any connection with my council
involvement nor as director of Signal Point. I think,
on two occasions, before I discovered that Doug was an
alcoholic, I had loaned him money for - to get to Murray
Bridge, to put some gas in the car.
Q.  I am not suggesting anything sinister about this, it is
just that it has been said in evidence that, at the
time, for instance, that Doug Milera went to the
Middleton Tavern, amongst other things, he said there
that he owed you $50.00.
A.  That’s correct.
Q.  And he did, did he. And this is about 5 June 1995.
A.  That’s correct. I constantly remind him of it.
Q.  He is also alleged to have said that he was upset with
you, he had not been paid for anything. That assertion
is a mystery to you, is it.
L.F. TUCKWELL XN (MR SMITH)

A. Yes, it may have come - and I can only answer this in -
   I can only suppose what Doug had in mind when he was
   appointed. But there was no question of any sort of
   payment for any work that he would do for the centre,
   because, quite clearly, it was an honorary position.
   And, if he had any other idea, then he was quite wrong.
   Nor was he led to believe that there would be any
   payment.

Q. Perhaps I will give you all of what is said and I
   emphasise it is secondhand.

A. Right.

Q. It is at p.2924 in the evidence of Mr Chapman.
   According to Mr Chapman Doug had said to him at
   the Middleton Tavern that Doug had been - perhaps
   I had better adjust that. It is said at that page
   that it was in the local press that Sarah and Doug
   had been appointed to the Management Committee of
   Signal Point.

A. Right.

Q. That's correct, isn't it.

A. That's correct.

Q. To be paid out of a grant that had been given and it
   was mooted that it was a museum grant.

A. To clear that, the History Trust of South Australia had
   made a grant of $6,500 to Signal Point, to mount a
   display on Aboriginal food technology. A component
   within that grant could be made available for a
   consultant, should we need it. That consultant was not
   necessarily anybody who would have been involved from
   the - of the Aboriginal community or from the white
   community, because, in the nature of mounting that
   display, the consultant, for instance, may have been a
   designer, not necessarily an Aboriginal person. The
   reason why Doug and Sarah were appointed was that they
   would become advisers to the centre on the correct use
   of either artefacts or to check the text work which
   would go up into the displays. If there was an
   assumption that the consultant would be Doug Milera,
then that would not have been correct. Although it
would have been possible to have paid for an Aboriginal
person to actually do that, but it was not necessary,
because they were appointed to the committee to do that
job.
Q. So far as you know, at least, there is no basis that you
could be responsible for of giving Doug Milera the
impression that he was entitled to some money from the
Signal Point operation.
A. No, that would have been a misconception that Doug had
made.
Q. Nonetheless, did you see a lot of the Mileras, in the
months following October 1993, down at Signal Point.
A. Yes, they would have, in the nature of the work that we
did together, they would have been present at least once
a week at the early stages and then - although I haven't
seen them - it has been on and off, because of the
nature of the present situation, they have been away
from Goolwa most of the time.
Q. Sarah's position, is it correct, was at least, at some
stage, that the island was very special to her, is that
correct, just to put it in general terms.
A. Yes.
Q. I think you had an involvement, didn't you, in helping
Sarah really trace her forebears and her connections
with the island.
A. Not with Hindmarsh Island so much as with Goolwa,
because I was familiar with her relatives who lived in
Goolwa. And that was the Walker family. And most of
them, the older people, would have been familiar with
the Walker family, anyway.
Q. Can you tell us, how did this come about, that you
talked to Sarah about such matters.
A. In enquiring into and, first of all, from my position
as Signal Point Director, I would first of all try to
establish as much as I could about Aboriginal connection
with Goolwa. In a private capacity, because she
mentioned she was a descendant of the Walker family and
my interest in local history, because I am also Chairman
of the local National Trust, I was able to assist her in
establishing her family tree in Goolwa going back
through the Walker family.
Q. Did that go to the extent of taking her to the cemetery
and that sort of thing.
A. I showed her the cenotaph in Goolwa, which has in the
front of it the names of the fallen from the First World
War and Arthur Walker, who was one of her forebears, was
one of the fallen from the First World War. And I was
able to show her that. And also walk over the grounds
that Reuben Walker - where Reuben Walker lived. And -
Q. Did Sarah, herself, know about her links to people
living in Goolwa, for instance, or was it you who
spelled them out to her.
A. No, she was aware of them. I was only able to fill in
the detail, to the best of my knowledge. I am not an
expert in genealogy.
Q. She was, however, indebted to you and she expressed her
indebtedness to you for what you did in this area for
her. That is, the tracing of her genealogies, is that
right.
A. I would say that I would react the same way to somebody
who showed me my genealogy. For instance, if I went
back to England and somebody did that as well.
Q. Is it the case that, at some stage, or at least I will
put this particular situation to you and see. It is a
note I have, and you might recognise the handwriting of
it. Is that the mayor, Mr Mills's handwriting.
A. Yes, I believe that is Mr Mills's writing.
Q. We will come to this, in a moment, but you actually did
attend a meeting, on 21 April 1994, with the Lower
Murray group, as Mr Mills records it, concerning Amelia
Park.
A. Yes, I did attend a meeting on 21 April.
Q. We will come to that. You have noted that, haven't
you.
A. Yes.
Q. Mr Mills, was he present at that meeting.
A. Yes, he was the mayor and he led that meeting.
Q. That was a successful meeting, in the sense that it worked out a compromise relating to Amelia Park, didn't it.
A. That's right, yes.
Q. Mr Mills noted here that Sarah was in Errol's office. That is Errol Commane, is that.
A. That is the clerk.
Q. That she put her hand on your shoulder and said 'If it hadn't been for my friend Frank's help I would not have known all about the issues here and I thank him for that as it has now linked me back with my ancestors.' First of all, is that an accurate note of -
A. I would say that that expression probably occurred. I couldn't recall that incident, but, if the mayor has stated that, that's what must have transpired.
Q. With the reservations you have previously described, you did help Sarah make a linkage with her ancestors in the Goolwa area.
A. I think that is a general statement that Sarah would have made there in regard to my role as liaison officer. And I think this has been confused now, because it was my role to establish good relationships between the Ngarrindjeri people and the District Council of Port Elliot and Goolwa and, in that respect, that was part of my role as liaison officer.
Q. But Sarah was certainly, and perhaps I am using the wrong verb here, building up a close attachment to the island and the environs of Hindmarsh Island, was she not.
A. She appeared to be rediscovering those things.
Q. I want to ask you some questions about Doreen Kartinyeri. You have met Doreen Kartinyeri, have you not.
A. Yes.
Q. Can you tell us where it was that you first met her. I will come to the date, in a moment.
A. Yes. On the three or four occasions that I met her, two
or three of those occasions would have been in Signal
Point, and at least on one occasion it would have been
at what's commonly called 'the college', which is
Graham's Castle.

Q. Perhaps I can help you with some dates so we can fix
this. It is common ground that there was a gathering of
Ngarrindjeri women at Graham's Castle on 19 and 20 June
1994.

A. That's correct.

Q. And there was a reconciliation meeting at Graham's
Castle on 23 April 1995 this year.

A. Right.

Q. As far as Graham's Castle was concerned - and don't be
wedded to those two dates, there may have been other
times that women gathered there, but does that help you
in any way fix a date when you saw Doreen or met Doreen
at Graham's Castle.

A. No. I would say that it was at one of those types of
meetings there, and it would have been last year some
time.

Q. So that would make it then the Professor Saunders’
Graham's Castle gathering, would it.

A. No.

Q. So it must be another occasion again.

A. Yes, yes.

Q. Do you remember an occasion when there were fires on
Hindmarsh Island two days running.

A. Yes.

Q. I think we have established that that was on 25 and 26
November 1993.

A. It certainly was warm - warm weather, yes.

Q. You would go along with that, would you.

A. Yes.

Q. You were about the place on those occasions.

A. Yes. I think the second fire I assisted the Channel 7
crew to - the local stringer to film that fire.
Q. In your role as the liaison officer between the council and the Ngarrindjeri people, or the Aboriginal people of the area, you attended meetings, kept notes, and, to some extent, had something to say about the topics of discussion.

A. Yes.

Q. You were wearing two caps on those occasions, were you, a councillor -

A. Yes.

Q. But a councillor charged with liaison.

A. Yes.

Q. A liaison function.

A. Yes.

Q. I think the first of such meetings was on 21 April 1994.

A. Yes.

Q. And you noted that, I think.

A. Yes.

Q. Looking at this bundle of notes produced to you -

A. They are my notes.

Q. There is a typewritten transcript on the top.

A. Right.

Q. And your handwriting on the document underneath.

A. That's right.

Q. Would you agree then that 21 April 1994 was the first such occasion that you kept comprehensive notes of a meeting between the Lower Murray Aboriginal Heritage Committee and some council members.

A. Yes, that's correct. I have a dreadful memory and it was - I was having problems with discharging my duty, so I decided then that I would keep detailed notes as much as possible.

Q. You haven't had an opportunity to check the transcript, but that purports to be a transcript of them.

A. Right.

EXHIBIT 185 Notes of meeting between Council and members of Lower Murray Aboriginal Heritage Committee dated 21.4.94 tendered by Mr Smith. Admitted.
Q. I think you heard Mr Jolly say that he protested about some leaflets being handed out from Signal Point to people coming into Signal Point.
A. Yes.
Q. I think you want to say something about that.
A. Yes. On that occasion I acted very quickly. We had a volunteer - volunteers come to us and we don't vet them to find out what their particular views on any particular subject are, and, as a result, we had one volunteer who was over-zealous. There was no leaflets passed out. That is incorrect. What had happened was we were attempting to poll the community, or the visitors, with two petitions - one for and one against the bridge - and it was pointed out to me that one of the volunteers was actually collecting signatures by canvassing them. When I discovered it, within a half an hour of that, I had contacted the mayor, who actually had a phone call from somebody within the centre. I reacted immediately because the centre is non-political. We don't allow any sort of political material to be either disseminated or discussed within the centre during the business hours. An apology was issued to the school, and everything that was done was done within a half an hour of that happening. The instruction is now very clear to volunteers that they may not participate in that kind of activity and, in fact, we withdrew both petitions from the centre at that time.
Q. Can I go back to the time of the bushfires and put this to you for your comment. There was, and correct me if I am wrong, not a confrontation exactly, but there were protesters down at the ferry, weren't there.
A. Yes.
Q. Protesters in opposition to the bridge.
A. Yes.
Q. And some island residents approached and there was somewhat of a confrontation.
A. Exactly.
Q. Mr Jolly was involved in that.
A. Yes.
Q. You were there then, were you.
A. Yes.
Q. Can you tell us if you remember whether or not Doreen Kartinyeri was present.
A. No. I couldn't recall whether - in both groups exactly how many people were there and who they were. I remember Mike quite clearly. I remember one or two other people quite clearly. My concern was - I came down to the group because I was concerned that it would get out of hand, and once again I saw my council duty as being to see that those sorts of things didn't occur. I spoke to people on both sides, and asked them to try and calm it down. It did after - initially, but, no, I can't recall whether Doreen Kartinyeri was there.
Q. Bob Hockey was there too.
A. Yes, Bob was there.
Q. Did you walk back to Signal Point in company with Bob Hockey and also in company with Sarah Milera at about the time of this confrontation, with your arm around Sarah, addressing her as Queen Sarah.
A. No, no. That wouldn't be correct. I did talk to Bob Hockey. Bob said 'Your mob is getting out of hand' and I said to -
Q. Incidentally, I just interrupt you there to say, I don't mean anything intimate about that at all. I wish to convey to you that it might only have been, you know 'Come with me, Sarah', with your arm outstretched in the area of her shoulders. I am not suggesting you embraced her or anything like that. You perhaps went so far as to guide Sarah away, toward Signal Point, and addressing her at the same time, or thereabouts, as Queen Sarah.
A. No, I don't recall that. My memory of that occasion was that I did talk to Bob, and pointed out to him that my only concern in that demonstration was that people would get out of hand and hurt one another, and Bob's remark to me, 'Well, if it has come from you, Frank, I accept that', and that is my recollection of that particular
incident. If Sarah was present at that occasion, she would have probably been distressed, too. In that case, I may have shepherded her away, as I would have any other member of those two protest groups if there had been distress to anybody on either side.

Q. Putting that incident aside, was Sarah addressed by you or anyone else as Queen Sarah from time to time.
A. I've never heard that expression.

Q. When did women's business - secret women's business associated with Hindmarsh Island or its environs become known to you as something that was asserted by some Aboriginal people.
A. First of all, I really have no knowledge of women's business.

Q. I am just talking about the fact of it.
A. Indeed, up to that point of time, I would not have been aware of women's business, nor would it have been known to any other person, particularly men, and absolutely particularly white men. So, therefore, I would have had no knowledge of it at any time prior to it becoming an issue.

Q. When did it come to your knowledge that secret women's business was asserted to be associated with Hindmarsh Island or the waters around Hindmarsh Island.
A. I guess, in that regard, it would have been about the time that everybody else discovered it. I had no special knowledge of that, nor would I have been a party to that knowledge prior to the general announcement of that.

Q. Are we talking about April or so of 1994.
A. I couldn't be sure of the date and time.

Q. It is the case that the government announced in about March 1994 that bridge construction was to recommence.
A. Right.

Q. Do you agree with that, around about that time.
A. Around that time.

Q. The protest movement, as far as the Aboriginal people
were concerned, was still current, if you like, and vigorous. Is that right.
A. That's correct.
Q. There was a meeting of council and Matt Rigney on 3 May 1994, is that right.
A. That's right.
Q. Again, in your capacity as liaison officer, you attended that meeting and made notes of it.
A. That's correct.
Q. Again, looking at the original notes produced to you dated 3 May, do you recognise them as your handwritten notes.
A. That's my notes, yes.
Q. You won't necessarily verify this, but there is a transcript on the front of it.
A. Right.
EXHIBIT 186 Record of discussion between Council and Mr Matt Rigney at the Goolwa Council offices on 3 May 1994 tendered by Mr Smith. Admitted.
Q. To put it at its highest, the problem of the bridge wasn't resolved at that meeting at all, was it.
A. No.
Q. Mr Rigney made the Aboriginal position clear, namely, that the Aboriginal people were opposed to it, and the council, on the other hand, were arguing for the construction of the bridge.
A. Yes.
Q. On 9 May there was a gathering of Aboriginal Ngarrindjeri women on the Hindmarsh Island, was there not.
A. That's right.
Q. On 11 and 12 May there was attempts to recommence work on the bridge site, which eventually culminated on 12 May, the Federal Minister making an order which ceased to work.
A. Yes.
Q. Did you have any involvement, and could you tell us what it was, in the gathering of those Ngarrindjeri people on the island, commencing on 9 May.

A. Yes. I asked the women whether I could attend the meeting at which the police representative from Christies Beach would be present, to brief them on what would happen if they mounted a protest or tried to stop work. Once again, I felt, because it is my ward and my responsibility, that I should be present at that meeting, and also because, in the earlier stop work, the STAR force came down with police dogs, and I actually raised a question in council in regard to that. So I really wanted to know what was going to happen if the demonstration occurred, so that I would be fully informed. So, under those conditions, I was present at that meeting. I was not permitted to be present at other parts of that meeting.

Q. There is evidence before this inquiry of a gathering of women, in particular, on the afternoon of 9 May at the Mouth House.

A. No, I wouldn't be aware of that.

Q. So you weren't there. You don't know anything about that.

A. No.

Q. You know the Mouth House belongs to Ann Lucas.

A. Yes.

Q. Later in that day, was a letter brought to your premises at Signal Point, a letter from the Ngarrindjeri people to the Federal Minister.

A. There was a letter brought in for me to look at. It was a letter that just dealt briefly with some sort of a protest and appeared to be signed by a number of people.

Q. That letter was brought in. What did you see happen to that letter when you - you looked at it.

A. Yes, but it was beyond my capacity. It was outside of my responsibility. I couldn't help.

Q. Who brought that letter to you.
A. There would have been two or three people present at the time. I gather it was a letter that was put together by a number of people, and there were several Ngarrindjeri ladies present.

Q. Sarah Milera being one.
A. Yes, she would have been.

Q. Dorothy Wilson being another.
A. I don't recall Dorothy Wilson.

Q. Who else of the ladies do you remember. Sarah was one.
A. No, I can't recall who the others were, because at that stage most of the Ngarrindjeri ladies, apart from Sarah, I didn't have much to do with. I had met Doreen on one or two occasions, but I doubt whether Doreen had been there either. I can't really recall. But it was late in the afternoon and it would have been something that I couldn't have dealt with anyway.

Q. Of all the ladies that attended, you remember Sarah being one of them.
A. Yes, I remember Sarah.

CONTINUED
Q. You said earlier there were a number of ladies. How many, do you think.
A. There probably would have been two or three, I can't recall at the time.
Q. Was it Sarah who proffered the letter to you.
A. Dear no, I really couldn't recall that, but it quite possibly would have been.
Q. For your advice, was it.
A. No, it was being shown to me obviously for my opinion, but the letter seemed to be - or it wasn't in a letter form, it tended to be a sort of a rambling type of statement with a lot of signatures on it, and I really couldn't see the point in the letter, and I really didn't give it much thought.
Q. You read it, did you.
A. I just briefly precised it, and it just seemed to be a letter of appeal of some sort.
Q. Do you remember it being a claim that there's something secret about the island relating to women's business.
A. No, I couldn't recall that sort of detail.
Q. What do you recall about the letter.
A. The signatures. I remembered the signatures and that there was a lot of detail about their belief, but nothing in particular that I could -
Q. Do you remember or do you not remember that it was addressed to the Federal Minister, Mr Tickner.
A. Yes, I recall that.
Q. Do you remember at least that it was a plea, if you like, to him to stop the bridge on these grounds, was that it.
A. No, I can't recall the body of the letter because it, as I say, was a sort of a rambling statement, and what the point to it was really escapes me. I don't have a very clear recollection of that, and I know that may sound strange.
Q. There were a number of signatories on the letter weren't there.
A. Yes.
Q. Can you tell us whether the document was in the one hand or obviously two different hands, that is segments of it of a different handwriting.
A. No, I couldn't recall that sort of detail, or I wouldn't have had any reason to analyse it in that way.
Q. So you had a look at the letter. What did you say to these ladies who had come in and proffered this letter to you.
A. Well, I think I recall at the time, because I'm extremely busy at that time of evening - we are closing down, we're doing security - and I recall at the time saying I wished I could spend more time, but there was nothing I could do to help them, and they went away.
Q. Bearing in mind that you were the liaison officer and you had helped Sarah with her genealogies and everything, why didn't you help them more than that.
A. Well, there are many occasions when I couldn't help on a number of issues, and I mean this is only one, probably one of a number that I wouldn't have been able to help on, and where I see that it wasn't strictly related to my duties, or it fell outside of my duties, then it would have to fall into personal relationships and, at this stage, I wouldn't have had time even for that.
Q. Was the letter photocopied at your premises.
A. Yes, I believe it was.
Q. Did you organise that.
A. I don't know whether I did it, I can't recall.
Q. I take it that that would have meant that one or other of these ladies, or all of them, would have had to have access to the office area of Signal Point to do that.
A. Well, normally when you come in to see me, you have to come into my office, and you have to come into that sort of an area, a working area. If you want to see me, you have to speak to me in that situation because of our level of staffing, and so that to talk to me, you would have to be in our offices.
Q. Who asked you to photocopy it, and did you assist with it, and why was it being photocopied.
A. As I said, I can't recall whether I would have done it, but vaguely I remember that there was a photocopy made, and I'm not quite sure of the reason - well, I suppose because they would have wanted to mail the letter, they would have kept a photocopy it. I'm not quite sure why they wanted to photocopy it.

Q. Do you have a fax at Signal Point.
A. No.

Q. Did any of the ladies, Sarah in particular, for instance, tell you that this was going to be faxed to the Federal minister, this letter.
A. They might have said that at the time, I don't know.

Q. You don't remember.
A. No.

Q. So the ladies, approximately three of them, left with the letter and what, one photocopy of it.
A. Well, I can't recall whether it was one or a dozen, but it was photocopied.

Q. Anything else done to the letter while in your presence that you can remember.
A. Not that I know of, no.

Q. Was there any expression of intent made to you about what was going to happen to the letter, by Sarah for instance.
A. No, I couldn't recall that sort of a statement.

Q. On the next day, there was a gathering, I think, at The Pines establishment on the island, is that right.
A. No, I couldn't recall. I wouldn't have gone to it. I wasn't aware that there was one.

Q. I'm suggesting to you that the letter was brought to you on 9 May. You wouldn't vigorously disagree with that, would you, or don't you know.
A. No, I wouldn't know, but it sounds like it was the day we just discussed.

Q. The day the police came down.
A. The day the police came.

Q. I think on the next day there was some sort of gathering, still on the island, of these women, wasn't
there, but if you don't know -
A. No, I don't know of any other.
Q. Then the next day, the 11th, there was a protest at the
bridge site.
A. Yes.
Q. A protest again on the 12th.
A. Yes.
Q. Which culminated in work being stopped primarily because
of the minister's declaration.
A. Yes.
Q. I wasn't listening carefully enough when you were
answering this question before, but did you tell us that
you did go to one of those gatherings of women on the
9th, 10th.
A. I went to the one where the police briefing was taking
place, and I was present at the protests on those other
days as an objector, and photographed the protest. That
was a practice that I always adopted.
Q. Well, The Pines is an establishment you're familiar with
on the island.
A. Yes.
Q. Did you go there on this series of days.
A. No, only on the day the police were there.
Q. On the day the police were there.
A. Yes.
Q. To The Pines.
A. Yes.
Q. What was happening then.
A. That was the briefing by the police officer from
Christies to lay out what would happen if they went on
with their protest, and I felt that I should be there to
determine whether, what was going to happen, because of
my concern that people would be hurt.
Q. Can I move now to June of 1994. Professor Saunders,
Cheryl Saunders, visited Goolwa, didn't she.
A. Yes.
Q. You actually made a submission to her, didn't you.
A. Yes.
Q. Was it a short submission to her which, for economic reasons, you said that you opposed the construction of the bridge.

A. Yes. No, that's not quite true. The submission dealt with the history of Aboriginals from the time of European contact in the Goolwa area up to the present time. It had no relationship to the bridge, I just wanted to point out the fact that Aboriginals actually lived on the elbow right through that time, and that there were records to verify that.

Q. By 'the elbow', what do you mean.

A. It's the bend of the river on which the town of Goolwa is built.

Q. Just looking at Exhibit 80 behind you here, are you indicating the sweep of the river around the location of the proposed bridge site.

A. Yes.

Q. When do you say Aboriginals lived there.

A. There was evidence that in Sturt's journals he records the presence of Aboriginals in that area.

Q. On the island side or the Goolwa side.

A. On both sides.

Q. Then there is evidence including ritual fights on what is now the Goolwa or the South Lakes Golf Club, and some incidents regarding Aboriginal settlements within the town of Goolwa from the time when the area was incorporated.

Q. Sturt's journals that you referred to, they are available for perusal at Signal Point, are they.

A. Yes.

Q. With those sorts of records.

A. That's right.

Q. I think there was yet another meeting between the Lower Murray Aboriginal Heritage Committee and members of the council at the Goolwa Council Chambers on 16 December 1994, was there not.

A. Yes.

Q. Again, as liaison officer, you attended that meeting and
noted the outcome of it, did you.
A. Yes, that's correct.
Q. Looking at your original notes there, five pages of
handwritten notes recording the meeting outcome of 16
December 1994 -
A. I'd like to point out an error in there. I had actually
listed it as 16 December, it was 6 December, and the
council's agenda is also incorrect because it shows it
as 6 November. The fact is that that meeting was 6
December.
Q. Looking at this bundle of documents produced to you,
putting aside the transcript on the top, the first
document of yours or document produced by you is the
agenda.
A. Yes.
Q. Which purports to set the meeting for Tuesday 6 November
1994.
A. Yes.
Q. That's wrong, it should be December.
A. Yes, that date is actually a Sunday.
Q. That's the agenda for the meeting, then the meeting did
actually take place, but not on the 16th as your rough
notes record, but on the 6th.
A. On the 6th.
Q. Subject to those reservations, everything else is in
order.
A. That's correct.
EXHIBIT 187 Agenda and notes of the meeting with the
Lower Murray Aboriginal Heritage
Committee of 6 December 1994 tendered by
Mr Smith. Admitted.
Q. I take it that in this period between - well, say,
between the middle of 1993 and the middle of 1994, you
came to know the members of the Friends of Goolwa and
Kumarangk.
A. Yes.
Q. Headed by Richard Owen.
A. Yes.
Q. There are a number of people, members of that group, all
of whom you would know, would that be right.
A. I know a lot of them, I don’t know them all.
Q. You were never a formal member of that organisation.
A. Not a formal member, no.
Q. You went to some meetings, did you.
A. Yes. I felt that the way to have very close
relationships with the Ngarrindjeri people, because they
form part of the Friends, was to have a relationship
with those. I did attend some of their meetings, I
still occasionally do.
Q. Were you sent minutes of their meetings.
A. No, not personally, I never received minutes.
Q. Were minutes kept.
A. I’m not aware of minutes being kept, no. The main form
of communication generally was fliers and other similar
material, and I responded on the basis of those. I’m
not aware it.
Q. When you say you’re ‘not aware of it’, there is just a
hint of reservation there. If you were at a meeting of
the Friends, presumably there would be a secretary who
would normally keep minutes, wouldn’t that be right.
A. Yes.
Q. Did that happen at any meetings you went to.
A. No, most of them were outside. There are all kinds of
activities going on around the group, and I would have
stood in a place in amongst the group. If there was
somebody recording minutes, I wasn’t aware of them. I
wouldn’t know who was recording the minutes, nor was I
interested in a formal relationship with the group. It
was a watching brief, basically.
Q. You were an observer.
A. Yes.
Q. It is the case, isn’t it, that Douglas and Sarah Milera
were attenders at these meetings, at least the ones you
went to.
A. Yes.
Q. It’s the case, isn’t it, that the Friends of Goolwa and
Kumarangk took up, if you like, as a weapon to stop the bridge, the Aboriginal cause.

A. I don't think I could comment on that. I'm aware that it was very much part of their philosophy.

Q. Their armoury, that would be a fair way to put it.

A. No, I'd be reluctant to use those kinds of words.

Q. That's a bit emotive, is it.

A. Yes.

Q. Is it the case, from your knowledge, that correspondence purporting to emanate from the Mileras was actually prepared by the members of that organisation, the Friends of Goolwa and Kumarangk.

A. I was never that close to the organisation to be aware of that. No, I couldn't comment on that.

Q. So, at the meetings you went to, were there resolutions, for instance, that letters should pass from their organisation to people in positions of power, or what happened.

A. I guess the organisation could have been worked in two ways; there could have been an executive that carried that forward, an executive group, and therefore what we were seeing was more or less the social out-working, the social meetings at which I attended. Occasionally there were resolutions passed there.

Q. Well, do you or do you not know that Richard Owen went to Canberra with some members of the Lower Murray Aboriginal Heritage Committee.

A. Yes, I was aware of that.

Q. Do you or do you not know that members of this organisation assisted the Aboriginal people and, in particular, the Lower Murray Aboriginal Heritage Committee, to put their case to the Federal minister.

A. I'm assured that that is right, yes, I believe that would be right.

Q. If you went to the meetings, wouldn't you know that positively, though.

A. Well, you must understand the way that I attended the meetings. I never attended the meetings regularly,
because that would imply that I was taking up that issue fully, and that was not my intention.

Q. I'm not asking you to tell tales on the Friends of Goolwa and Kumarangk, I'm just asking you to tell me what you saw and what you heard at the meeting. Did you observe or see or hear anything that indicated that the friends of Goolwa and Kumarangk were assisting the Aboriginal people, and in particular the Lower Murray Aboriginal Heritage Committee, to plead their case to the minister.

A. Yes, I feel that there was a genuine attempt to assist the Aboriginal people. I'm not sure whether it went to the extent where they actually assisted the Lower Murray Aboriginal Heritage Committee because, knowing Aboriginal people, they don't like that sort of close contact with their decision making body, and anybody who has any business with Aboriginal bodies knows that the process of decision making is very slow, and therefore you cannot get Aboriginal people to make a decision on the spot, so therefore I don't believe that you could actually get alongside the Lower Murray Aboriginal Heritage Committee, for instance, and make decisions for them. It's a very slow process, as a liaison person I have discovered, in getting a decision made.
Q. We have some firsthand knowledge of that with Mr Kenny, I think. When Douglas Milera appeared on television on the Channel 10 News on the evening of 6 June 1995 and then Sarah appeared in The Advertiser, on 7 June, I take it that that was a matter of - those two incidents were a matter of great interest to you, weren't they.
A. Yes, it was very, very disturbing. And it just didn't make any sense to me. Absolutely no sense at all.
Q. At that stage, they were both living in Goolwa, weren't they.
A. Yes.
Q. Sarah and Doug Milera.
A. Yes.
Q. At Sexton Street.
A. Yes.
Q. They were regular visitors to Signal Point.
A. Yes.
Q. They were on the -
A. They were on the board -
Q. They were on the board.
A. They were on the committee, rather.
Q. Did you speak to Sarah and Doug about those two incidents, the Douglas Milera interview on Channel 10 and `The great lie of Hindmarsh Island' article, of 7 June.
A. No, in general conversations there would have been, sort of, broad references to it, but, if you are talking about a serious conversation, no.
Q. It has been suggested in evidence to this Inquiry that, following the 6 June television interview, where Douglas Milera said a number of things, and I won't canvass them with you, he then contacted a number of people on the following day to let or the day following his talk with the journalist Chris Kenny, which would be 6 June, that is, the day before the airing of the programme, contacted a number of people to tell them what he had done. Did he contact you.
A. No.
Q. Did he contact you at all about what he had done in that television programme.
A. Not in that period of time, no.
Q. But subsequently.
A. Yes, when he came back to - when they came back to Goolwa to live again.
Q. And Sarah, did she contact you after 'The great lie of Hindmarsh Island' article, of 7 June 1995, in The Advertiser.
A. Yes, there would have been visits to Signal Point.
Q. Did she explain to you what -
A. Apart from - not more than apart from saying that she was disappointed. And she didn't elaborate on it. And I find that when both Doug and Sarah are distressed you can feel their distress, but they really don't open up very much to you. And in the case of that particular article she was clearly distressed, but she didn't go very deeply into that particular issue.
Q. What did Milera tell you then when he finally spoke to you about this topic of the Chris Kenny interviews.
A. I think the drift of the conversation was that he was so drunk that he would have said anything, but that was basically what he - you know, the conversation I had with him.
Q. And Sarah when she spoke to you about the article of 7 June, what did she say.
A. Her - she was clearly distressed about it and her expression of that was that she was disappointed. I am not quite sure what she meant by that.
Q. Can you tell us anything about the reaction of the Friends of Goolwa and Kumarangk to those two incidents. In particular, Richard Owen. Do you know whether - did Richard Owen express any reaction to you about the Douglas Milera television interview and the Sarah Milera 'The great lie of Hindmarsh Island' article.
A. I think I have been to one meeting since that has occurred and there was a feeling or an expression from
Richard that he felt that the incident was disgraceful.
That was, I guess, in regard to Doug. And that he felt
that the way that The Advertiser article was written was
very unfair, but they were sort of general statements
that he made to the meeting.

COMSR
Q. Did you yourself see the television interview of Doug
Milera.
A. Yes, I did.
Q. Were you fairly familiar with Doug, at that time, were
you, and his appearance and his manner.
A. Yes.
Q. And did you form any view, yourself, looking at the
television interview.
A. Yes, I was - it wasn't - I felt that it wasn't Doug.
It seemed like - he seemed to be a shadow of himself.
And I really wouldn't want to comment more - any more
than that.

CROSS-EXAMINATION BY MR MEYER
Q. I understand you to say that you are a fourth generation
Goolwa resident.
A. Yes.
Q. Have you, in essence, lived there for the bulk of your
life.
A. Yes, mainly.
Q. Ignoring being away for a few years here and there.
A. Yes.
Q. Most of the time, you have been at Goolwa.
A. Yes.
Q. Did you go to school there as a primary school student.
A. Yes.
Q. You look more than 50. Are you older than 50.
A. I am. I am 61.
Q. I only ask that question because I understand Sarah
Milera is about 49.
A. Right.
Q. In your recollection of Hindmarsh Island as a child, was
it covered with trees.
A. No.
Q. In an article that was written in The Bulletin, on 28 March 1995, Sarah Milera says that she can recall the island being covered with trees.
A. Yes.
Q. Can you recall the island being covered with trees.
A. No.
Q. That is, in fact, false, to say that the island was covered with trees, isn't it.
A. Yes.
Q. In your living memory, it would be false to say the island was covered with trees.
A. I would - if I was a young person, for instance, a child - I can only answer this in regard to my own experience. In about 1940, I believe it was, my father took me down to the Goolwa wharf to see some paddle steamers. And, when we got down there, they looked like huge ocean liners, because I was very small and my impression for a long time after that was what happened to those great ships that used to come in, into the Goolwa wharf? And, in fact, they weren't, they were very small paddle steamers. And so I can't answer for Sarah, of course, but maybe that is the answer to that question.
Q. By the time you were 15 or 20, were you still living at Goolwa.
A. Yes.
Q. Still visiting Hindmarsh Island regularly.
A. Yes.
Q. By that time, paddle steamers wouldn't have looked like ocean liners, would they.
A. No.
Q. You would have been able to form a view, when you were 15 or 20, as to whether Hindmarsh Island was covered with trees.
A. Yes.
Q. Was it.
A. No.
Q. At the time when you were 15 or 20, given that you are 12 years older than Sarah Milera, she would have been 3 or between 3 and 8.
A. Right.
Q. So, at a time of her living memory, Hindmarsh Island wasn't covered with trees, was it.
A. No.
Q. It would be false to say so.
A. Yes.
Q. Have you read the article of 28 March 1995, in The Bulletin.
A. Yes.
Q. That article, in fact, makes some reference to matters that have been discussed with you.
A. Right.
Q. And you have provided a number of quotations to The Bulletin.
A. Yes.
Q. Were you disturbed to read that Sarah Milera had said to The Bulletin that she could remember that Hindmarsh Island was covered with trees.
A. No, I didn't take any particular notice to that, because in what reference or in what way she meant that. It may have been she was speaking in a form of an allegorical form. It may be she was expressing herself in a particular way.
Q. She couldn't be doing that. The article says `She can recall the island being covered with trees most of which have gone allowing salt levels to be increased.' Nothing allegorical about that.
A. No.
Q. A statement of fact.
A. Yes.
Q. And it is wrong, isn't it.
A. Yes.
Q. Knowing that Sarah Milera had made such a bald statement of fact that was wrong, did it cause you to query any other statements of fact that Sarah Milera
made to you.
A. No, not at all.
Q. Why not.
A. You must, when you are dealing with people, you must deal with a level of trust.
Q. Sure, but when they come along and tell you something that is so blatantly wrong, doesn't that then put you on notice that your level of trust shouldn't be quite so high.
A. I am not quite sure whether that quotation, coming from the press, was actually what she said.
Q. Did you ask her.
A. No.
Q. Why not.
A. I had no reason to.
Q. Have you talked to her, since 28 March 1995.
A. Certainly.
Q. It also says and it quotes you, I think, as saying that Sarah Milera is the great granddaughter of King Peter Pulami.
A. That's what I understand, yes.
Q. Where did you get that information from.
A. She gave me the information about the descendants of her line.
Q. Did you check it.
A. No, I had no reason to. If you gave me your genealogy, I wouldn't check it. I would accept it.
Q. You are a historian, aren't you.
A. I don't claim that as my profession.
Q. No, but isn't it your serious interest.
A. My serious interest, yes.
Q. Historians check facts, don't they.
A. If I am going to publish it, yes.
Q. If they are going to rely on it, historians check facts, don't they.
A. Yes.
Q. You gave facts to Professor Saunders.
A. Yes.
Q. Was one of the facts that you gave to Professor Saunders that Sarah Milera was the great granddaughter of King Peter Pulami.
A. No.

Q. You gave that fact to The Bulletin.
A. In a conversation away, yes, because I believed that would be fact.

Q. But you didn't take any effort to check it.
A. No, because at that time I had no reason to.

Q. If I tell you that Sarah Milera is not the great granddaughter of King Peter Pulami, does that disturb you.
A. If you could show me the evidence, yes.

Q. What information did Sarah Milera give you about her ancestry.
A. It was verbal.

Q. Was it you who suggested to her that she was linked to King Peter.
A. No, not at all.

Q. Not at all.
A. No.

Q. Have you followed the connection between the Walkers, who you say -
A. Yes.

Q. She is connected to and King Pulami.
A. No.

Q. Have you made any attempt to research it within the Goolwa area.
A. No.

Q. Have you made any attempt to research it at the museum.
A. No, not beyond the Walker family, no. There is no reason. I had no reason to do it. I am not publishing anything.

Q. And yet you are the Director of Signal Point, which is taking a strong interest in Ngarrindjeri people in this area.
A. Yes, I may point out that I did say earlier on that I was not an expert in genealogy.
Q. But you have placed in your gathering information a
    good deal of importance on information provided by Sarah
    Milera, haven't you.
A. Yes.
Q. It is very important that the information that Sarah
    Milera provides to you is accurate, isn't it.
A. Yes.
Q. And, if it is inaccurate, it undermines the whole
    foundation upon which your beliefs are formed.
A. Not necessarily.
Q. Who else has provided you with information. Who are
    your informants, other than Sarah and Doug.
A. I would say that if I was tracing the line back, and I
    have no reason to -
Q. I mean generally in relation to these issues about
    Hindmarsh Island.
A. In what way?
Q. You were putting forward information about matters
    relating to the development of a bridge and how they
    affect Aboriginal people at Hindmarsh Island, weren't
    you.
A. I didn't say that.
Q. At all.
A. No, I didn't say that.
Q. Ever.
A. I can't recall that I have ever said anything like that,
    but I said at the opening that my objection to the
    bridge is on economic grounds.
Q. As a member of the council.
A. Yes.
Q. If you were assured by the State Government that
    there will be no expense to the Port Elliot and Goolwa
    Council for the purposes of construction of a bridge,
    whether in its initial construction or its on-going
    maintenance, ie the council is free now and for ever
    of financial costs in relation to the construction
    and maintenance of the bridge, I take it you would
    vote for it being constructed.
A. Yes, with some other assurances.
Q. Your answer in evidence-in-chief to Mr Smith was that your only objection to the bridge was economic.
A. Exactly right.
Q. I have taken away the economic objection.
A. No, you haven't.
Q. Then I will rephrase it. Taking away all economic objections -
A. Yes.
Q. To the construction of the bridge, do I take it that you would vote for the bridge to be constructed.
A. No, I still wouldn't.
Q. Why not.
A. It would have to become a State responsibility.
Q. That is economic, isn't it.
A. Yes.
Q. We have taken away all of those economic responsibilities. We will attribute them to the State.
A. Right.
Q. You are asked to assume this.
A. Yes.
Q. Will you vote for it now.
A. Yes, provided the State take over the responsibility of dealing with the Aboriginal and environmental issues. That would be their responsibility also not the district council's.
Q. That is not what I am putting to you. You see, that is the qualification you didn't put in your evidence-in-chief. I want to know whether you, as a councillor of the Port Elliot Council, if there were no economic or financial implications, at all -
A. Yes.
Q. For the council in relation to the construction and maintenance of the bridge, however you may interpret it, if those objections are taken away, would you vote for the construction of the bridge.
A. I believe I would, but the case would have to be put and I would have to understand all of the details.
Q. The case has been put.
A. This is theoretical.
Q. Yes. For the purposes of answering that question, you are asked to assume an ideal state of affairs, I think, financially.
A. An ideal state of affairs, yes.

Q. I wasn't going quite that far. As a council member, you are aware that there has been an environmental impact study.
A. Yes.

Q. You know all about that environmental impact study.
A. Yes.

Q. Have you read it.
A. Been through it.

Q. Been through it.
A. Yes.

Q. You know that the Conservation Council didn't have any objections to the construction of a bridge when the environmental impact study was done.
A. No.

Q. You don't know that.
A. No.

Q. Would you like to check the environmental impact study.
A. Yes.

Q. Isn't it something that you, as a council member, in considering these matters, should know, or is that another instance of your not very good memory.
A. I don't understand why you are referring to my memory.
I'm as -

Q. You said that you didn't have a very good memory.
A. That's right.

Q. I am asking you whether you now don't know about the Conservation Council's attitude at the time of the environmental impact study because you have a faulty memory or because you never knew.
A. No. I mean, if you are asking me to make a comment out of the EIS, I don't have it in front of me. You
obviously are fairly well prepared for this question. I am not. I can't respond that way.

Q. Have you ever met with any representative of the engineers who are associated with the construction of the bridge.

A. No, because the bridge committee would have been involved with that sort of discussion. I wasn't a member of the council's bridge committee.

Q. As the Director of Signal Point, did you receive any correspondence from the engineers relating to the construction of the bridge.

A. No.

Q. Have you been requested to point out any sites which might be relevant to the construction of the bridge?

A. No.

Q. By the engineers.

A. No.

Q. Was there a planning subcommittee of council which dealt with development issues.

A. Yes.

Q. Were you on that.

A. At the time the bridge was being planned and so on, I wasn't already in council, or the preparation really.

Q. Are you married.

A. Yes.

Q. Is your wife a member of the Friends of Kumarangk.

A. I wouldn't know.

Q. Have you asked her.

A. I would assume she is.

Q. Do you go to meetings of the Friends of Kumarangk with your wife.

A. No.

Q. What, you go separately.

A. She doesn't attend.

Q. She is a member of the association, but she doesn't attend the meetings.
A. I don't - I really don't know whether she is a member.
Q. You are not divorced or separated or anything like that.
A. No, but there are people who have separate social lives
and, I mean, I don't ask her to account for everything
she is a member of, or where she goes.
COMSR: Where is this line of questioning going?
MR MEYER: The line of questioning is along the
line that I want to suggest to Mr Tuckwell that he is
nowhere near as independent on the construction of this
bridge as he makes out, and that is a matter that is
relevant to you in the context of the evidence that has
been given by Mr Tuckwell. That is the relevance of it.
COMSR: Are you going to put that question?
MR MEYER: I am moving towards it.
XXN
Q. The next question I was going to put to you is: this
issue of building a bridge or not building a bridge in
Goolwa has been one of the most momentous political
issues there has been for Goolwa.
A. Yes.
Q. And you are telling me that you don't know whether your
wife is a member of a group opposed to the building of
the bridge.
A. It is none of my business.
Q. Do you know whether your wife ever receives minutes of
meetings of the Friends of Kumarangk.
A. No, I'm not aware of that.
Q. You answered a question to Mr Smith, who asked whether
you received minutes and you said `No, not personally'.
A. No.
Q. That suggested that you might have got them in some
other way -
A. No.
Q. Than you yourself receiving them.
A. I was assuming - when I responded to that question, I
assumed that minutes may have been issued. I wasn't
aware of it, so I personally didn't get minutes. I am
RF 39H

L.F. TUCKWELL XXN (MR MEYER)

1. not aware of my wife getting minutes from a - from the
2. friends, if she is a member.
3. Q. So minutes of the Friends of Kumarangk haven't come into
4. your household, whether directed to you or otherwise.
5. A. No.
6. Q. So the qualification that you haven't received them
7. personally, merely means you don't know of receiving
8. minutes at all.
9. A. No.
10. Q. I take it, as a ward councillor, that you have an
11. interest in keeping abreast of what is going on within
12. your ward.
13. A. I try to, in my own incomplete way.
14. Q. For that purpose, you have been to a number of meetings
15. of the Friends of Kumarangk.
16. A. Yes.
17. Q. Been to any meetings of any other group related to the
18. construction of the bridge.
19. A. Yes. I went to a public meeting of the Friends of
20. Hindmarsh Island.
21. Q. When.
22. A. It would have been a year or so ago, in the town hall.
23. Q. Any others.
24. A. No, I'm not aware of any others.
25. Q. Have you sought to find out about any others.
26. A. No.
27. Q. You must be aware, as councillor, that there is a group
28. which is active in support of the bridge.
29. A. Yes.
30. Q. Have you made any attempt to liaise with them to find
31. out when they are having meetings and matters of that
32. nature, as a ward councillor.
33. A. Yes. I speak to individual members occasionally, but I
34. am not eligible to be a part of that group, and I -
35. Q. As a ward councillor, have you sought to go as an
36. observer.
37. A. I have said I have attended a meeting.
Q. Other than that meeting that you have referred to, have you sought, as a ward councillor, to attend any other meeting.
A. No, I don't seek to go anywhere.
Q. When did you first become associated with Signal Point.
Q. Was the project, at least in its planning and development stages, well underway by then.
A. Yes.
Q. I think it was a project of the bicentenary arrangements.
A. Yes.
Q. There was a committee to develop Signal Point.
A. Yes.
Q. Who was the chairman.
A. The working committee, you are referring to?
Q. I don't know whether there is one, or more than one committee. Who was -
A. Yes, there was a committee that actually brought the project up to a stage where it was submitted for an application, and then a working committee was formed. The chairman of that was Mr Tom Chapman, who is present with us this morning.
Q. How long was he chairman.
A. Until 1990, I believe.
Q. By that time, it had been brought from its planning stage to operational.
A. Yes.
Q. And you had been appointed its director.
A. Yes. I became full-time director in 1989.
Q. In fact, Tom Chapman was very active in the development of Signal Point, wasn't he.
A. Yes, he was.
Q. How long have you known the Chapmans.
A. Since 1985, and I served for a while on the Regional Development Corporation Board with Wendy Chapman.
Q. The Chapmans have owned land on Hindmarsh Island since before 1985, haven't they.
A. Yes.
Q. Did you not know them before then.
A. No, no.
Q. Even though you lived in the area.
A. Yes.
Q. When did the marina start.
A. I believe that was probably around about 1980, or something like that.
Q. Did you take any interest in that.
A. Well, like most locals, yes. It was something we knew that was going on, yes.
Q. Did that bring the Chapmans to your notice.
A. No, not at that time.
Q. Did you know it was the Chapmans who were developing it.
A. We knew that that was the name of the people who were actually building it, but I wasn't really involved with the Chapmans until 1985, when I met Tom Chapman, who was the chairman, and then we became quite well known - they became quite well known to me.
Q. Subsequent to that there was a discussion about the development or the construction of the bridge, wasn't there, for the Hindmarsh Island.
A. Yes, there was a number of proposals put up from time to time, yes.
Q. That wasn't the first time that there has been discussion about the construction of a bridge.
A. No.
Q. There had been much discussion over many years, hadn't there.
A. Yes.
Q. What is the earliest that you can recollect there being any discussion about the construction of a bridge at Hindmarsh Island.
A. I suppose it would have been in the 1980s, when it was becoming evident that the ferry service was becoming overloaded.
Q. Can I suggest to you that in fact it was a long time before then, decades before.
A. Yes. There are all kinds of projects all over Australia that have some root beginnings in concepts.

Q. I am not concerned about the rest of Australia. I am only concerned about this problem, and I am suggesting to you that many years ago there were some serious suggestions about building a bridge at Hindmarsh Island.

A. Yes.

Q. And you are aware of that.

A. Yes.

Q. In fact, it was the subject of publication in the ‘Advertiser’.

A. Yes.

Q. That’s right, isn’t it.

A. Yes.

Q. 30 to 40 years ago.

A. Yes.

Q. You have got a cutting of that, haven’t you.

A. Yes.

Q. Are you able to produce that.

A. I believe I would be able to. It would be in my file somewhere.

Q. That is in a cuttings book, isn’t it. That newspaper article, at least in this instance, has been provided to you by a Val Lawrence.

A. Yes, I am aware of Val, yes.

Q. That’s right, isn’t it.

A. Yes, I believe I can recall the cutting, yes.

Q. And you got it from Val Lawrence.

A. I believe so, yes.

Q. That was in association with the National Trust.

A. Yes.

Q. There is nothing new, is there, about the notion of building a bridge to Hindmarsh Island.

A. No, no.

Q. When did you ever first hear of any suggestion of any form of Aboriginal objection to building a bridge at Hindmarsh Island.
A. That would have to be related to the Amelia Park - the stopping of the work at Amelia Park.
Q. When was that.
A. That would have been 1992-93.
Q. In fact, later than 1993.
A. Yes.
Q. You have been a Goolwa resident for most of your life. You are an active amateur historian, is that right.
A. Yes.
Q. You are Chairman of the National Trust. You have taken an interest in Aboriginal matters for many years. There have been proposals around the place to build a bridge to Hindmarsh Island for at least 40 years.
A. Yes.
Q. There has been an actual approved proposal since, what, 1990 or so.
A. Yes.
Q. And the first that you hear of an Aboriginal objection is October 1993.
A. Yes, that's right.
Q. One would have thought that you were a person in the community with the interests that you have, that had there been any form of Aboriginal objection, you would have heard about it.
A. Yes.
Q. You have said that you met Sarah Milera first, and Doug Milera second. Is that right.
A. Yes.

ADJOURNED 1.00 P.M.
RESUMING 2.27 P.M.

Q. Just before the break, I was going to ask you some questions in relation to your first meetings with Doug and Sarah Milera. As I understand your evidence, you first met Douglas Milera at the picnic which took place in October 1993.

A. Yes.

Q. You'd never met him before that time.

A. No.

Q. You met Sarah within a few weeks prior to that date.

A. Yes.

Q. It doesn't matter specifically when, but it's within a month or so of that meeting, is that right.

A. Yes.

Q. At the time that you met them, they weren't living in Goolwa.

A. No.

Q. They were living in Murray Bridge or somewhere else.

A. Yes.

Q. They were visiting Goolwa, Doug for the first time as far as you knew.

A. Possibly, yes. I wouldn't know, no.

Q. Sarah, to your knowledge, at least on one prior occasion when you'd previously met her.

A. Yes.

Q. Subsequently they came back to Goolwa to live, at least for a period of time. When did they come back to live there.

A. I couldn't exactly tell you when, but it was sometime after that.

Q. How much. Was it weeks after or months after.

A. I couldn't hazard a guess on that. It was sometime after, all I can say it was sometime after.

Q. What I'm not clear about is they came back to Goolwa.

A. Not that I know of.
Q. I take it that you had met or known Johnny McHughes.
A. Yes.

Q. He is an Aboriginal person.
A. Yes.

Q. How long have you known Johnny McHughes, years.
A. Yes, since at least 1947.

Q. His family have been long-term Aboriginal residents in Goolwa.
A. Yes.

Q. In fact, I think the only consistent long-term Aboriginal family in your lifetime living in Goolwa.
A. Well, the Godfreys would have been another family. Flo Lush, who was a Ramindjeri lady, lived there all of her life. I think there were a number of Ramindjeri or Ngarrindjeri people there that appeared almost invisible because of their lifestyle, and we weren't conscious of them unless we knew that they were there, but they were there.

Q. Does that mean also in appearance, they were not very black.
A. No, that's true, but I'm not quite sure, in the original condition, how Ngarrindjeri people really looked. There may have been some change in skin tones, even with the original Ngarrindjeri.

Q. Johnny McHughes has given evidence in here that Doug Milera spoke to him in the Corio Hotel and spoke to him, Johnny thought, not realising that he was an Aboriginal person.
A. Right.

Q. That is a mistake that you could make with Johnny McHughes, isn't it.
A. Yes.

Q. If you saw him in a street in Adelaide, you mightn't initially say to yourself 'He is an Aboriginal person'.
A. If I saw him or if another person saw him?

Q. A stranger.
A. No, you would, I believe you would have to, you would
have to be told that, because John has a very European appearance.

Q. If you saw Sarah Milera walking down the street, would you know that she was an Aboriginal person.

A. Yes.

Q. Because she is darker skinned than Johnny McHughes.

A. Yes.

Q. Had Doug and Sarah Milera been living in Goolwa for any lengthy period of time prior to your meeting them in November 1993, you would know about it, wouldn't you.

A. Yes.

Q. After you met Doug Milera at the picnic, where did you next meet him.

A. They would have been similar types of functions I guess, I couldn't recall exactly in the order of the number of times I have met him in those earlier periods.

Q. Sarah and/or Doug Milera, on various occasions, have made comments like you provided them with lots of information.

A. Yes.

Q. They have publically acknowledged your help.

A. Yes.

Q. In relation to Aboriginal matters.

A. Yes.

Q. Where did you generally meet with the Mileras on occasions when you gave them information and help.

A. They generally came to the centre like most people do when they require that sort of information, and that information would have been shared at that time.

Q. When you first started talking to them in that way, rather than casually meeting them at a picnic or a function, when you started meeting with them and imparting information to them, did Sarah and Doug have a poor geographical knowledge of Hindmarsh Island and Goolwa.

A. Well, I don't know that. I assumed that they would have.

Q. Did you have to give them information about the
geography of the area and show them various places.

A. No.

Q. You didn't do that.

A. I've never been on Hindmarsh Island with either Doug or Sarah.

Q. What about on the Goolwa side.

A. That goes without reason, they lived there and I was there.

Q. Did you show them around.

A. Only to take them to the sites that were there. As a matter of fact it was a joint experience, because they were showing me things and I was showing them things.

Q. You were showing them.

A. Yes.

Q. They didn't know that those places existed.

A. No, that's not true.

Q. If you were needing to show them, why did they need you to do that.

A. Well, because for instance, the cenotaph is not a place where you would actually go to look for information, and that was an obvious one that I could share with them.

They, in turn, or Sarah, in turn, showed me which of the sites belonged to her family, or had an association with her family, and then I, on one occasion, took her to, or generally showed her where the Walker, the last Walker camp was, and I used to go there when I was a small boy with my father when we bought fish on the weekends, to show her where that family home had once stood, because it's completely levelled, and it's one of the sites in Walker Park, which the council is named after that family.

Q. Have you ever told the Department of Aboriginal Affairs that you could assist in showing people where relevant Aboriginal sites may be.

A. No.

Q. May somebody else have told the Department of Aboriginal Affairs that you would be a person to be consulted in relation to matters of that nature.
A. I believe there was a letter sent from Dosser to the
construction company for the bridge, which actually said
that the department, the manager of that department had
pointed out that the Director of Signal Point would show
them where the sites were, where the camp could be
located, and of course that was a nonsense. I don't
have that information, nor am I entitled to have that
information, but I believe you can get a copy of that
letter from Dosser.

Q. I show to you a letter dated 9 November 1993. It
relates to some questions I asked you before lunch.
(NOT ANSWERED)

MR MEYER: I will arrange for the Commission staff
to make a copy of it which excludes anything which makes
it a difficulty.

XXN

Q. I will just move on to another topic. You know Henry
Rankine.

A. Yes.

Q. How long have you known Henry.

A. 20 years, perhaps.

Q. How long have you been able to recognise Henry.

A. I suppose all of that time.

Q. If you saw Henry Rankine in a crowd, you'd recognise
him.

A. Depending on where he was in the crowd.

Q. But I mean if there were a group of Aboriginal men, or a
group of any men, and you were five yards away and had
your glasses on, if you wear them, you'd recognise
Henry.

A. Quite possibly.

Q. Surely if you've known a man for 20 years you'd have to
know him.

A. You'd have to show me the circumstances before I could
answer that.

Q. Do you have a problem in answering simple questions.

A. I have trouble with your simple questions.

Q. Beg your pardon.
A. I have trouble with your simple questions.
Q. Well, it's only that you have said that you can't
   remember seeing Mr Rankine at some meeting in Goolwa,
   when he was standing on the stage.
A. That's not true. I recalled that - once I knew which
   meeting it was, I recalled seeing him. Now I believe
   you understand that I did answer that question
   truthfully at the time, and it was just that I was
   confused as to which meeting was being referred to.
Q. Well, if you were at a meeting and Mr Rankine was at a
   meeting, and you were close enough to be able to see
   people and thus identify them by their features,
   whatever the meeting, you know Mr Rankine well enough to
   be able to identify him, don't you.
A. Yes.
Q. So it doesn't matter which meeting we are talking about,
   you would be able to identify Mr Rankine at any meeting
   if you saw him.
A. Yes, if I had a clear view, yes.
Q. In fact, you published a book about Signal Point which
   specifically refers to Mr Rankine, haven't you.
A. Yes.
Q. And specifically refers to information relating to
   Ngarrindjeri people via Henry Rankine.
A. Yes.
Q. Henry has been very actively involved in Signal Point,
   hasn't he.
A. Yes, I believe from the time when Mr Chapman was
   chairman of the board of that company, when the
   production of the films were made that are now shown in
   there. I was assisting the display people putting some
   of those displays together.
Q. Did you ever discuss with Henry any matters relating to
   the construction of the bridge at Hindmarsh Island.
A. No.
Q. Never.
A. No.
Q. Did you ever take any steps to ascertain whether Henry
had signified that he didn't have any objection to the
construction of the bridge at Hindmarsh Island.
A. No, I don't believe so.
Q. Henry is an eminent person in the Aboriginal community,
  isn't he.
A. Yes.
Q. If you were wanting to go and find out, as a person who
  has a great interest in Aboriginal matters, something
  which may concern the Aboriginal community, Henry would
  be one of the first people you'd go and ask, wouldn't
  he.
A. It depends on what the nature of that business was,
  whether it fell within Henry's area.
Q. Other than a matter that concerns Hindmarsh Island and
  Goolwa, Henry would be one of the first people you
  would go and ask.
A. Amongst others, yes. I mean you couldn't ask one
  individual alone, you would have to ask a number of the
  elders to get a consensus of an opinion, but I hadn't
  any reason to do that.
Q. Do you know a person called Olwyn Barwick.
A. Yes.
Q. That's a lady, isn't it.
A. Pardon?
Q. That's not a man, it's a lady, Olwyn Barwick.
A. Yes.
Q. Who is she.
A. She is a lady that lives on Hindmarsh Island.
Q. Does she play any active role in relation to this issue
  of the construction of a bridge.
A. I believe she has some interest in the bridge, yes.
Q. What interest do you believe she has.
A. Well, I think she's a pro ferry person.
Q. Have you ever been associated with her in any way in the
  provision of information in relation to this bridge
  issue.
A. In what way?
Q. In any way. You've got more knowledge of this than I
have.
A. Well, if it was matters of historical background, of
that kind of thing, my reference library is open to all
people if they want to use it.
Q. What if it's in relation to some action to support the
banning of building the bridge.
A. No, I wouldn't have given any information in that light.
I may have, as a private person, expressed some
interest, but -
Q. Would you have held yourself out as somebody who can be
consulted to provide such information.
A. I would consult and provide information for anybody on a
broad spectrum, both sides of the issue.
Q. Would you have held yourself out or permitted yourself
to be held out as a person who could provide information
to assist people who opposed the building of the bridge.
A. No.
Q. If someone had included your name in such a document,
that would be without your knowledge.
A. Exactly right. I know what you're driving at, yes.
Q. And without your consent.
A. Without my knowledge.
Q. Without your consent.
A. I don't know whether I would have given consent if I had
have been asked, but it was without any knowledge.
Q. Looking at the document which I now produce to you.
A. Yes, I'm aware of this document. The fact was that it
contains my silent number, and I certainly would not
have given permission for that.
Q. Would you turn to p.2. Your name appears as a person
who can give information about Aboriginal heritage
issues, is that right.
A. Yes.
Q. At the top of the page.
A. Yes.
Q. It appears again as a person who can give information
relating to the protection of wetlands for migratory and
other birds.
1. A. Yes.
2. Q. This is a person who can give information about the
   built heritage, particularly of Goolwa.
   A. Yes.
3. Q. Your name is given as a person who can give information
   in relation to planning policies and processes.
   A. That only proves that I'm a genius, not that I gave
   permission.
   A. Yes.
5. Q. That's a document prepared by the Kumarangk Coalition.
   A. Yes.
6. Q. That's a coalition of a group of people who oppose the
   Hindmarsh Island bridge.
   A. Of which I have had nothing to do with.
7. Q. I asked you a question.
   A. What was that?
8. Q. That was a group that oppose the construction of the
   Hindmarsh Island bridge.
   A. Right.
9. Q. Is that right.
   A. Yes.
10. Q. The front page of that goes on to describe that persons
    who want assistance in preparing information to assist
    in the banning of the bridge, should consult the persons
    who are listed on the second page.
   A. That's right.
11. Q. That's you.
12. A. Yes.
13. Q. Why didn't you, when I asked you questions earlier about
    whether you had any association with those people who
    are opposing the bridge, why didn't you say `Yes, I did,
    but my name was wrongly used'.
   A. I would have to have a tremendous recall of memory to be
able to recall of all of these details, and indeed you
will probably find out, during the course of the rest of
your questioning, that I will have similar trouble.
Q. You knew of the existence of this document before I
produced it to you.
A. Yes, because it has my silent number on it. It has
given me a great deal of pain and problems, and that's
the reason why I remember this particular document, but
didn't recall it when when your questions seemed to
indicate a direct answer on some other matter, not
regarding this piece of paper.
Q. I suggest that you've been closely associated with
opposition to the Hindmarsh Island bridge, and your wife
has been closely associated with it, and you are now
attempting to deny that association.
A. That may be your opinion.
Q. I'm putting it to you as a proposition. Don't worry
about what my opinion is, I'm putting it to you as a
proposition.
A. It's not true.
EXHIBIT 188 Document entitled 'Kumarangk Coalition
Urgent Action Required' tendered by Mr.
Meyer. Admitted.
CONTINUED
COMSR: Mr Meyer, where is this line of questioning leading, other than on issues of credibility?

MR MEYER: That was leading up the credibility line that Mr Tuckwell is having to give evidence before the Commission. And I will make submissions to your Honour, at the end of the day, that your Honour should be careful as to what evidence you do and don't accept. That is all.

Q. Have you ever been to the Centre for Urban Ecology, 83 Halifax Street.

A. Not that I can recall.

COMSR: Is this some more questions devoted to the same -

MR MEYER: It is just the address of the Kumarangk Coalition, that's all.

Q. Did you, as the Director of Signal Point, suggest the appointment of Doug and Sarah Milera, as consultants to Signal Point.

A. Yes.

Q. That suggestion was accepted by the Management Committee.

A. Yes.

Q. Did you have a discussion about the Murray Valley Standard, sometime prior to 12 January 1995, about Doug and Sarah Milera and their association with Signal Point.

A. No.

Q. Did you speak with them, at all.

A. No.

Q. With the Murray Standard.

A. No.

Q. Was the Murray Standard making it up, when they say said The Director, Frank Tuckwell, said the couple from Murray Bridge had had a lot of contact with the Goolwa community.
A. No, I don't recall having that conversation with the Murray Valley Standard. The article appeared in the Victor Harbor Times.

Q. I will ask the same questions, then, in relation to the Victor Harbor Times.

A. Right.

Q. Did you provide information to the Victor Harbor Times -

A. Yes.

Q. About the appointment of the Mileras to Signal Point.

A. Yes, in response to a phone call, I provided information in that regard. The printing of that information came out wrong. The article was quite in error. And subsequently I wrote a letter to the Times. And you should have a copy of that.

Q. Did you tell the Times that `Mrs Milera is a Kumarangk Elder.'

A. I don't recall using that term.

Q. And `... her grandfather, King Peter Pulami was Paramount Repulle of the Ngarrindjeri nation.'

A. I don't recall using that particular phrase. Is that a reprint from the Murray Valley Standard?

Q. I will show you the document I am looking at. Do you recognise that article.

A. If this is the one from the Victor Harbor Times.

Q. That is from the Victor Harbor Times, is it.

A. Yes.

Q. Do you recognise that.

A. It has no publishing details down here.

Q. I understand that, that's why I asked you, do you recognise it.

A. No, I don't - if it was from the Victor Harbor Times, but I don't think the Times had a picture in theirs.

Q. There was just a plain, separate article.

A. No.

Q. Did you provide the information in that article.

A. I don't believe so.

Q. Would it be wrong to say `The Mileras will be technical
consultants to management for three Aboriginal displays
based around food technology, which will include
hunting, weapons, food preparation and utensils.'

A. That is correct.
Q. It is correct.
A. That is correct, yes.
Q. So, they will be technical consultants to management.
A. Yes.
Q. In the next paragraph, it goes on to say `They have been
made possible by a $6,500 History Trust grant.'
A. Yes.
Q. `And Signal Point has put up $2,500 into the scheme.'
A. Yes.
Q. That suggests to me that technical consultants, the
Mileras, are going to be paid. They have been retained
and they are going to be paid, because it has been made
possible by this $9,000 that is available.
A. No, that's not correct.
Q. Did you provide that information about the money to the
newspaper.
A. Yes.
Q. Did you ever say to Doug and Sarah Milera that `Being
technical consultants doesn't mean that I am going to
pay you.'
A. No, but it assumes that, when they become members of the
committee, they will become members of the committee to
actually do that.
Q. I am distinguishing between being a member of the
committee and becoming a technical consultant. See,
this doesn't say that they are becoming members of the
committee, this says `They will be technical consultants
to management.'
A. That's right.
Q. Did you say to the Mileras `Whilst I am going to appoint
you as a consultant to Signal Point, I am not going to
pay you.'
A. That's right. There is such things as unpaid
consultants.
Q. Did you say that to them.
A. I think they were aware and I am sure -
Q. Will you answer the question. Did you say that to them.
A. I don't recall what the exact conversation was, but they
- it was an understanding that we had, that they would
come on as directors. And they would be the people who
would consult and give us technical information on the
displays and that simply -
Q. Do I take your answer to mean that there was no
discussion about money, at all.
A. There may have been some suggestion that, if there is
expense incurred, then that would be taken care of. If
they had to drive a car, say, from Murray Bridge to
Goolwa, we couldn't expect them do that for nothing, but
that wouldn't be part of a consultancy fee. In fact, I
believe there was one occasion when we did actually pay
for Sarah and Doug to come down from Murray Bridge to
Goolwa to do the first consultancy on the display.
Q. In that article, as I read out to you before, you said
that Doug and Sarah had had a lot of contact with the
Goolwa community. What was your basis for saying that.
A. They have had. They did have.
Q. In what way.
A. They were part of the social fabric of the town in that
regard from the Friends of Kumarangk and that kind of
interaction that they had with the town.
Q. We have established that the Mileras didn't have any
contact with Goolwa, to your knowledge, before
October/November 1993.
A. You are talking about before that?
Q. I am only taking your comment about having had a lot of
contact with the Goolwa community. Do you mean they had
recent contact with the Goolwa community.
A. Yes.
Q. Obviously they haven't had as much contact with the
Goolwa community, for example, as you have.
A. No.
Q. You have had a lot of contact.
A. Yes.
Q. Do you know how long Doug had been secretary of the Lower Murray Aboriginal Heritage Committee.
A. No.
Q. How long have you been the Director of Signal Point.
A. Since 1989.
Q. Since 1989, have you had contact, as the Director of the Signal Point, with the Lower Murray Aboriginal Heritage Committee.
A. On one occasion we applied for permission to display the Aboriginal food display, artefacts which we hold, and that possibly would have been the earliest formal contact we had with the committee.
Q. Was that with Doug.
A. That was through Doug, yes, he was the secretary of it.
Q. So, you had had some dealings with Doug, before November 1993.
COMSR: I don't think the witness said that. I think he simply said that's the manner in which there was contact.
MR MEYER: That is what I am trying to establish.
WITNESS: No, that would have been after that date.
XXN
Q. When were you appointed as Director of Signal Point.
Q. Between the time when you were appointed in 1989 and November 1993, did you have any contact with the Lower Murray Aboriginal Heritage Committee.
A. No, I don't believe so.
COMSR
Q. Apart from having no contact, had you heard of them, during that time.
A. No, I don't believe so.
XXN
Q. During the time that you were the Director of Signal Point, Henry Rankine was involved with Signal Point.
A. No, that involvement with Henry ended around about late
1987 when some of the programmes that we actually show
in Signal Point feature Henry and we tells us the story
of his clan legends and so on. And that is one of the
feature productions we have in the centre. And the
production team would have worked very closely with
Henry and the people of Raukkan, at that stage. And I
don't believe there was any contact after that.
Q. And, besides those matters, do you have any other
matters relating to Aboriginal displays in Signal Point.
A. No, not up until fairly recently.
Q. You have said that Doug borrowed $50.00 from you, as I
understand it, on two separate occasions, is that right.
A. Yes.
Q. Did Doug ask you for money on more than the two
occasions that you lent him money and there were
occasions when you refused.
A. On the first occasion it seemed to be the friendly thing
to do. He needed to get back. He needed to fill the
car up and so on. The second time, the same thing. The
third time it obviously became - I was aware of his
problem. I became aware of his problem.
Q. All I am putting to you is this, that Doug is want to
borrow money from people, or obtain money from people
and is want to ask, on other occasions, and understands
being refused. And that probably happened to you too.
A. Possibly, yes.
Q. I think you became representative - council
representative for the Lower Murray Aboriginal Heritage
Committee, on about 8 November 1993.
A. Right.
Q. Is that right.
A. Yes.
Q. Were there any other nominations, from amongst the
councillors, for that position.
A. No.
Q. So, you were elected, unopposed, so to speak.
A. That's right.
Q. Up until that time, I understand your evidence now to be
you hadn't had any association or contact with the Lower Murray Aboriginal Heritage Committee.
A. There may have been contact before that. There would have had to have been some reason for me being appointed.
Q. Have you ever been to Camp Coorong.
A. Yes.
Q. When.
A. Would have been about 12 months ago.
Q. Can't you remember.
A. I remember the occasion, but I can't recall the date.
Q. Did you make a note of it in your diary.
A. Yes, it would have been in my diary.
Q. In fact, your diary would assist you quite a bit, in giving evidence, wouldn't it.
A. Yes.
Q. Have you got your diary available.
A. I have got the current one, yes.
Q. What about last year's.
A. No.
Q. Where is that.
A. That is in Signal Point.
Q. But it is available. It is not destroyed or anything like that. You could obtain it.
A. Yes.
Q. And your 1993 diary, equally as obtainable.
A. Yes.
Q. If you had your diaries, would you be able to be more accurate, in giving dates and times that you did things.
A. I'm sure. I mean, I don't have the advantage of sitting in a witness box trying to quote dates almost accurately every time it was asked, because it is totally impossible.
Q. I am not implying a criticism at all. That is why I am asking if you have a diary.
MR MEYER: I ask the witness to produce his diaries. That obviously would be of assistance, in relation to the matters of his evidence.
COMSR: Indicating that you might require to
examination the witness further?
MR MEYER: I hope not, but, if the diaries were
available, it would assist in clarifying a lot of
matters. Especially if counsel assisting was able to
look at them and then verify the mechanical things, like
times and dates and things of that nature.

Q. Are you able to produce the diaries to Mr Smith.
A. Yes, I have no objection to that.

Q. May it have been that you went to a meeting at Camp
Coorong, on 28 March 1994.
A. Quite possibly that was the date, yes.
Q. What sort of meeting was that.
A. It was a planning meeting that was required by Ann Lucas
to get permission or to get authorisation from that
group to proceed with her planning before it came into
council and I was invited to come over and see that kind
of action in place.
Q. Who is Ann Lucas.
A. She is a - one of my constituents in my ward and she
lives on Hindmarsh Island.
Q. Whereabouts.
A. On the southeastern portion of the island.
Q. Did she live in any house which has already been
referred to in this Royal Commission.
COMSR: The witness may not know what houses
have been.
MR MEYER: He has given evidence about the Mouth
House in his evidence-in-chief.
WITNESS: The Mouth House?

Q. Yes.
A. No, this wasn't to do with the Mouth House. It was to
do with a new property called The Swans, or a property
called The Swans.
Q. Does she own the Mouth House.
A. Yes.
Q. So there was a planning application to do development on Hindmarsh Island, by the lady who owned the Mouth House.
A. Yes.
Q. Were you in favour of that development.
A. Yes, council was in favour of it.
Q. I asked you if you were.
A. Yes.
Q. Were the Mileras present at that meeting.
A. No.
Q. Were the Mileras, at that time, living in the Mouth House.
A. I couldn't be sure of that, I - no, I couldn't tell you.
Q. Did the Mileras live in the Mouth House, at some stage, to your knowledge.
A. They may have stayed there, yes. I am not quite sure who the tenants were, in that particular house, because they were only very short-term tenants, I believe. It is actually a holiday home, as far as I can determine. All those houses are in the holiday zone. It is a holiday housing zone.
Q. Have you ever been inside the Mouth House.
COMSR: What is the relevance of that?
MR MEYER: We have had evidence about the Mouth House and the geography of the Mouth House and evidence like that.
COMSR: Is that a contentious issue?
MR MEYER: I don't know. I am interested in what this witness has to say. It has been contentious.
WITNESS: I was in the house on one occasion.
XXN
Q. When was that. And, to help you, I think that you have given evidence about going to the Mouth House, on 9 May.
A. Right.
Q. When you had a meeting with police. Do you remember giving evidence about that.
A. No, I was not at the house, on that occasion.
Q. It was somewhere else.
A. It was a place I believe is called The Pines.
Q. Did you go to the Mouth House before that meeting with police or after.
A. I don't know. It was one of those social occasions.
Q. Would your diary help you.
A. No, it wouldn't have been a diary item. It was a social visit.
Q. There has been evidence that, on the walls of the Mouth House, there were photographs, aerial photographs, of areas around Hindmarsh Island and Goolwa. Do you recollect that.
A. No.
CONTINUED
COMSR: We are not going to traverse areas that we have already been over, are we?
MR MEYER: I hope not. If I haven't got any disagreement with them. I don't think there is a problem with it, because it is material which is in a letter addressed to engineers, and, therefore, is not being used in a limited way. But out of caution -
COMSR: Yes, I can assure you I will be acting out of caution, too.
MR MEYER: I am making sure I satisfy any inquiries that Mr Smith has first before we take it any further than that.

XXN
Q. The episode of the Aboriginal ladies, as I understand it to be, coming to Signal Point on the occasion of making a copy of the letter that has been discussed this morning - you know what I am talking about.
A. Yes.
Q. As I understand it, what was brought in to you was a document on a number of different pieces of paper. Is that right.
A. No. I only saw one piece of paper with a lot of signatures on it.
Q. Did you assist in collating the document so that it could be copied in a sensible form.
A. I can't recall whether I did the photocopying or not.
Q. What I am suggesting to you is that there was several pieces of paper that needed to be cut and shut, so to speak, so they were put together in sensible sequence and then photocopied, and that you assisted in carrying out that task.
A. Well, I may have done if they suggested that this should go here and that should go there.
Q. Did you keep a copy.
A. No.
COMSR: The witness has only said so far `I may have done'.

Q. Can you recall whether or not you did do it.

A. To perhaps tidy this up, ultimately, it is my responsibility if that photocopy was made in Signal Point. So I will assume responsibility for doing it.

XXN

Q. That wasn't what I was concerned about. I am not concerned about whether it was copied in Signal Point or not. All I want is some information, firstly, as to whether you assisted in putting the thing together, and secondly, whether you kept a copy.

A. No.

Q. Do you know whether any group associated with opposition to construction of the bridge has met or had meetings at Signal Point.

A. No.

Q. You say they haven't, or you don't know.

A. They haven't. I wouldn't allow the centre to be used for that, because it is a non-political - the charter of the centre is that it must be non-political -

Q. What about after hours.

A. After hours - the Rate Payers Association, for instance, is a public body, an incorporated public body, has right of access to the centre after hours, along with other bodies like the Lions Club, and the environment group, the history society - all have access to the centre after hours.

Q. Friends of Kumarangk.

A. No.

Q. Never had meetings there.

A. No.

MR MEYER: I don't need the assistance from the gallery in the answering of questions. It is the second or third time we have had help for the answers.

COMSR: I wasn't aware of it.

MR MEYER: Perhaps because I am midway in between.
Q. The Rate Payers Association has.
A. Yes.
Q. Who is the Chairman of the Rate Payers Association.
A. The current one?
Q. Yes.
A. Mr Bill Longworth.
Q. Does he live in Goolwa.
A. No.
Q. Where does he live. I don't mean his actual address, just generally.
A. I think he lives on Hindmarsh Island, but his business, I think, is both in town and in another place.
Q. 'In town' you mean in Adelaide or in town in Goolwa.
A. In Goolwa. He has an office in Goolwa.
COMSR: How is this detail going to assist me at all?
MR MEYER: Because you will have it put to you that in fact Mr Longworth has been a very active opponent to the bridge, and again I will put that Mr Tuckwell is associated with people who are opposed to the bridge.
The following questions relate to that.
COMSR: Can we put it to Mr Tuckwell shortly?
MR MEYER: He has said he is not. That is why I am cross-examining him about it. If he had said he was, I could understand what we were doing.
Q. Are you a member of the executive of the Rate Payers Association.
A. No.
Q. Have you been.
A. No.
Q. Never.
A. Never. They do issue minutes and they have got a roll book, and that information is quite easily obtainable.
Q. Does that association have an executive.
A. Yes.

Q. You kept notes or minutes of the meeting of 21 April 1994.
A. Yes.

Q. As I read those notes or minutes, there are references only to archaeological sites.
A. Broadly, yes.

Q. No reference to any other basis or objection in respect of the construction of the bridge from the Aboriginal point of view. Is that right.
A. That's right.

Q. When you went to the meeting on 9 May, the occasion when the police were giving their briefing, was Mr Wooley there.
A. I don't think so.

Q. Do you know Mr Wooley.
A. I'm aware of him, yes.

Q. Would you recognise him.
A. I think so, yes. I don't think I saw him there.

Q. He is not in the hearing room today, is he.
A. I don't think so, no.

Q. You are right. I can tell you he is not.

COMSR: The witness's evidence is, isn't it, that he first heard of any issue of women's business at the time it became a public issue?

MR MEYER: I don't know when that date may be defined. That is why I am asking Mr Tuckwell these questions.

XXN

Q. Was Dr Draper present on 9 May.
A. He may have been. Once again, I -

Q. I want to take you back to the article of 28 May 1995.

A. Yes.
Q. That is a copy of apparently p.20 and p.21. Is that right.
A. Right.
Q. On p.20 it shows a photograph, part of which appears on p.21.
A. Right.
Q. The caption on p.21, next to the photograph says "Hindmarsh Island custodian, Sarah Milera, and local councillor, Frank Tuckwell'.
A. Right.
Q. Is it in fact you with Sarah Milera in the picture.
A. Yes.
Q. Did the journalist or author of the article, Robert Mayne, attend at Goolwa.
A. Yes.
Q. Did you meet with him.
A. Yes.
Q. Did you meet with him in company with Sarah.
A. Yes. He requested it.
Q. I presume he arranged for you to go and have your photograph taken.
A. Yes.
Q. Together with Sarah, did you provide information to Mr Mayne so that he could write this article.
A. Yes, some.
Q. Did you say to Mr Mayne words to the effect "Frank Tuckwell, a white counsellor on Goolwa Council, which encompasses the site, says that almost all white Australians cannot understand the importance of these Aboriginal beliefs or the cultural and historical framework on which they are based.'
A. Yes.
Q. Did you say words to that effect to Mr Mayne.
A. Yes.
Q. You said that to him despite the fact that it is your belief that the bridge should be built, except for these financial issues.
A. We are talking about sites. We may not be talking about sites where the bridge is going to be built. That is a general statement about - that could be a general statement on Aboriginal sites anywhere in Australia.

Q. The caption for this article is `The great divide', `The controversy over the Hindmarsh Island Bridge highlights the gulf between white law and native tradition'.

COMSR: But that caption wasn't there at the time of this discussion, was it, My Meyer?

MR MEYER: That is absolutely correct.

XXN

Q. The discussion that you were having with the journalist was in the context of the building of the Hindmarsh Island Bridge, wasn't it.

A. No. From my recollection of that particular discussion, it was the great rift that is occurring between white Australians and black Australians is because white Australians don't understand fully the attachment that Aboriginal people have for their land, that their spirit lays on the land, that they draw their life from the land, and that was what I was trying to get out in that article, that there are those of us who live by one law of the land, and then there are other - the citizens who have to live by two laws of the land. I was trying to demonstrate there how iniquitous it is for one race of our people, or one branch of our people in this nation to have to be subject to two sets of laws, while the rest of us have one. That is the spirit of that argument - that is the spirit of that article, and that is the reason why I spoke in those terms.

Q. But that is not to be related to the specific issue of Hindmarsh Island Bridge.

A. Not particularly. That is a broad appeal to understand Aboriginal people and what they are going through.

Q. If someone reads that in the context of Hindmarsh Island Bridge, you say that doesn't fairly express your view.

A. No, because we have problems with this (INDICATES HOLY BIBLE) and how we approach even our own scriptures.
Q. I am just trying to understand what your view is, because that remark immediately follows upon the remark about Sarah Milera relating to the Hindmarsh Island Bridge, so the context of the article, I read it as your saying, because of these difficulties, you cannot support the Hindmarsh Island Bridge. Because it goes on in the next column to say 'Tuckwell is more than just a local councillor, embroiled in the row over a concrete bridge which will now probably never be built, and for which there was never any real financial justification. He also runs the Signal Point River Murray Display Centre', and it goes on to describe matters relating to the Ngarrindjeri nation, and it is all in that context. But you say that is wrong. That is not how you put it to Mr Mayne.

A. No, I still say the spirit of the conversation I had with him was my concern that black Australians have to live by two sets of laws, while the rest of us live with one, and the bridge is just the issue that tests that particular belief that I have.

Q. There was a reference in here somewhere, I thought, to the suggestion that the River Murray Mouth had been closed in pre-settlement occasions. Do you remember that.

COMSR: In where?

MR MEYER: In this article.

COMSR: Said to be ascribed to the witness, that statement?

MR MEYER: No, to the Mileras.

Q. Do you remember anything of that nature.

A. I don't recall it, but if you say so, it must be there.

Q. On p.1 it says 'Meanwhile, the drought has narrowed the nearby Murray Mouth, so much that it might close up occasionally this year. The local Aboriginal people can remember this happening from time to time over the thousands of years their ancestors have been there, and like everything else that happens locally, it has a
symbolic meaning’. Were you involved in any discussion of that nature with Mr Mayne.
A. No.
Q. Was Doug present at the time you had the interview with Sarah and -
A. No.
Q. So it was just Sarah.
A. Yes.
Q. Did Sarah say anything like that to Robert Mayne.
A. I wouldn't know, because what happened in the course of that interview was that the interview took place over a range of areas, and that is only one photograph that was taken. There were a number of photographs taken in a lot of different places, and the interview ranged over far more subjects than that. To put that conversation into its proper context, you would have to see the rest of his notes, because, like everything that we see in the short version, it is never the same as the original.
Q. In that article, there is a reference to Sarah saying that she is the custodian of Hindmarsh Island. Were you present when that was said to Robert Mayne.
A. Yes, I believe I did hear her say that.
Q. Do you know - when was the first time you heard that suggestion.
A. Well, I believe we would have come to that conclusion anyway. It doesn't need to be expressed because I believe under the Act, the Aboriginal Heritage Act 1988, the Minister designates custodianship to the Heritage Committee in the area where those are, so that Doug, Sarah and all the other committee members would have been custodians under the Act.
Q. Doug didn't say that he was the custodian.
A. But he wasn't interviewed.
Q. No, at other times Doug hasn't said that, has he.
A. Yes.
Q. In answer to my question, when's the first time that you heard Sarah mention that she was the custodian of the island.
A. The island?
Q. Hindmarsh Island.
A. I don't believe I've heard Sarah actually say that at other times.
Q. Other than in that interview.
A. Yes.
Q. Would you look at Exhibit 114. Have you seen that document before.
A. No.
Q. That appears to be firstly a press release by Sarah Milera, and secondly a letter from Doug Milera as the Secretary of the Lower Murray Aboriginal Heritage Committee, doesn't it.
A. So it appears, yes.
Q. Mr Smith asked you some questions about documents being prepared by the Friends of Kumarangk Organisation for the Mileras, or for Doug as Secretary of the Lower Murray Aboriginal Heritage Committee, didn't he.
A. Yes. The question was asked, yes.
Q. I put to you that that's a document which was so prepared by Mr Owen in fact. Are you able to assist us with that.
A. No, I have no knowledge of this document.
Q. Are you familiar with the style.
A. Well, I'd have to study it to -
Q. Would you do so.
COMSR: Where will it take me?
MR MEYER: I hope for the witness to do it in answer to the document, compared to documents that he has seen.
COMSR: Do you mean the literary style.
MR MEYER: Typeface appearance, setout, matters of that nature.
COMSR: Compare it with whose document?
Q. Compare it, for example, to the flier, because your name was wrongly in it. It's of like style.

COMSR: Why is that any more a matter for the witness?

MR MEYER: Hopefully it's more within his knowledge than it is within mine, and because Mr Tuckwell was involved -

WITNESS: I was not involved with this document.

MR MEYER: - In these general events in Goolwa.

WITNESS: I have not been involved with these sorts of documents. I have seen them, but I have never been involved with them.

Q. I didn't say you were involved in this document, I was answering the Royal Commissioner that you were involved in these matters with the bridge at Hindmarsh Island. I didn't say that you were involved in the documents - so have my clients, the Chapmans, been involved. All I am putting to you, with your knowledge of the matters, you are in a position to give a comment or opinion in relation to the preparation of the document.

A. I can't help you with these because I couldn't - I have no knowledge of these documents or who composed them.

Q. I asked you this before lunch about the article in The Advertiser 30 or 40 years ago, are you able to produce that cutting book at the same time as you produce the diary.

A. Mrs Laurence asked me sometime about this, and I can't find the particular clipping, but it can be easily located in the State Library, there wouldn't be any problem of actually getting a copy of that. I have seen it.

Q. Are you able to give us a date that would restrict the area of searching.

A. According to Val, it would have been in the 1930s, somewhere there. If I have to define that, I'm afraid I had have to be very vague on that, but a good reference from the library should be able to pick it out quite
COMSR: Are we going on to matters that haven't been fully covered, are we?

MR MEYER: It's the same letter that I've been trying to sort out so that we don't offend anything. What I want to put to Mr Tuckwell, and Mr Smith will ask you to make a suppression order in relation to the matters in sub-para.C, and I won't read them out, but I will tender the document and my friend will ask for a suppression order, but what I wish to put to this witness is that -

COMSR: Is it his document, first of all?

MR MEYER: No it's a document from Ian Carter, Director of Operations, Department of State Aboriginal Affairs, addressed to Connell Wagner Pty Ltd, but it makes specific reference to the Director of Signal Point, and it's the reference to the Director of Signal Point that I wish to ask the question about.

Q. What is said in the letter is a reference to an Aboriginal site, and the last sentence on p.1, which is not objectionable, says 'These areas can be identified by the Director of the Signal Point Interpretation Centre'. Do you have any knowledge of any suggestion that you, in 1993, being the director, are able to identify Aboriginal sites.

A. Absolutely not.

Q. Were you consulted about that.

A. I rejected that letter when it was shown to me by one of the employees, and that letter carried no authority. I have no authority to point out sites, as a member of council I have no authority to point out those sites.

In fact, I have no knowledge of those sites apart from knowing that in the broad area, those sites exist.

Q. Given the description of the letter that I've given to her Honour, you are familiar with it.

A. Yes, it was shown to me.

MR MEYER: I tender the letter. I'm happy for a
suppression order in relation to sub-para.C.

MR MEYER: Someone from the State Aboriginal Affairs Department will come along.

EXHIBIT 190 Letter of 9 November 1993 tendered by Mr Meyer. Admitted.

COMSR: I make an order suppressing the order from publication, and restricting it to counsel representing the parties here.

CROSS-EXAMINATION BY MRS SHAW

Q. You've said that Exhibit 189, its contents in so far as you've spoken out, are not a product of any view you have about the bridge, but perhaps more accurately express your views about Aboriginal problems and their interrelates with whites and so on, and you said "Their spirit lies in the land, their life is in the land".

A. Yes.

Q. Is that something that you are quite passionate about as a result of all your reading.

A. Yes.

Q. You said that you are the, is it the chairman of the local history trust.

A. Yes, Chairman of the National Trust, Goolwa Branch.

Q. For how long have you been involved in National Trust.

A. Probably be about 15 years, I guess.

Q. There is this Aboriginal display at Signal Point that you've had an involvement in.

A. Yes.

Q. How long have you been involved in that.

A. The putting together of the display?

Q. Yes.

A. The display is almost complete. It's been about eight to nine months in preparation, so I guess from concept, when we wrote the concept for the display until the time it hits the floor later on this month, it would have been probably a full 12 months.

Q. But your interest in Aboriginal issues and their heritage, is that a longstanding interest.
A. Yes, it is.
Q. For how long would you say you have felt as you do about Aboriginal issues.
A. I guess it comes from childhood. Like Mr Jolly earlier, we grew up in a community that was both black and white. We were fortunate to live up in a community that was well balanced and accepted one another, and so that that had been latent within me for a number of years.
Q. As a result of that, had you made it your business to acquire knowledge along the way about the heritage of the Aboriginal people of the area.
A. As much as I could as a white person.
Q. I mean you refer to, I think, the Arthur Walker name on the memorial.
A. Yes.
Q. That was something that you'd been familiar with all your life.
A. Yes.
Q. Or since the war, obviously, and you spoke, or you're reported as saying in the article in the Bulletin that you could talk about the Ngarrindjeri history, the Tendi, the clans and so on.
A. Yes.
Q. When had you acquired that knowledge.
A. From the time that Professor Jenkin had written his book `Conquest of the Ngarrindjeri', and I have followed that text as an example for applying that knowledge to whatever job that I was doing.
Q. When had you read Graham Jenkin's book.
A. It would have been when it was first released, and that probably would have been about 10 years ago, when I become seriously involved in Signal Point on a full-time basis, and I realised that I would have to develop more knowledge and try to understand the situation in regards to Aboriginal culture, so that I could be more fully informed when we developed displays. However, my connection with the Ngarrindjeri people is through my relatives. I have Ngarrindjeri relatives, and so I have
that attachment to the race.
Q. Was it the case that you had sought to follow through
the ancestry of people like the Walkers at Goolwa well
before Sarah and Doug came on the scene.
A. Yes. In fact in 1990, I petitioned council to make a
park `Walker Reserve' in the place where I remembered
that the Walker family lived, and they were the last
semitraditional people who lived by a place called
Armfield Slip, which is a part of Signal Point's other
precincts, and I remember going there as a small boy
with my father to buy fish on the Saturday mornings, and
the memory of the Walker family was very strong from my
father who informed me about Arthur Walker, who was a
young Ngarrindjeri man who went away to the first world
war and fought on Gallipoli, and later went on France
and fell there, so I was very conscious of that
connection at the Goolwa cenotaph, and so when I
petitioned council in 1990, council graciously accepted
the petition and named the park after the Walker family.
Q. But when you were preparing the information for the
petition, or as a result of reading Jenkin's book, did
you follow through the ancestry of the Walker family in
the Ngarrindjeri nation.
A. As far as I could go.
Q. Just can you tell us how far that was.
A. That would only go back as far as Reuben Walker, because
when you get into - I find that when you get into
Aboriginal genealogy, you have to get into a specialist
field, because the relationships are not like European
relationships, they are very complex, and where somebody
- where we understand cousins, brothers and sisters,
uncles and aunts and so on, and grandparents and so on,
the relationship is different within the Ngarrindjeri
world than it is in the white or European communities
and so, in that regard, I couldn't sort of enter into
that field, but I could accept the testimony of those
people who actually claim that descent.
Q. You said that after Doug and Sarah came down to Goolwa,
you would see Sarah, and possibly Doug, at least once a week at Signal Point.

A. Yes, that's right.

Q. Was Sarah very interested in, I think you used the word ‘rediscovering’ her own history.

A. Yes. When I first met her, she talked to me about the Walker family, and I responded, because I’d just completed a fairly exhaustive research on Arthur, because I wanted to develop a display in the centre that gives testimony to Ngarrindjeri servicemen who went away and fought for this country, and so I thought because Arthur was a good example, because he was on Gallipoli and then died before he came home, that I would do that research, and so I got all his service records and all of that, and I was able to share those with Sarah.

Q. She wasn't aware of the Walker family having lived in that area before you pointed out Arthur.

A. No.

Q. Is that so.

A. That's right. She was discovering what perhaps I would if I went to my ancestral home.

Q. If you went back to England.

A. Yes.

Q. When she rediscovered the fact that her family had had ties with that area, did she want you to help her as to her links with the Walker family.

A. Yes. She indicated that she would like any material that I had, and I was able to go through my files and copy the material that I had and give it to her, but that was basically on Arthur Walker, and Ruben.

Q. Did you tell her what you knew about the Ngarrindjeri people generally, about their Tendi and so on.

A. No, I didn't think I could teach a professional, or I couldn't teach a person of that race something about their own race. I assumed that they would have known that.

Q. Well, did you consider that she did have a link to King Pulami. From what you knew of the Walkers, did you
yourself think that the Walkers were linked to King Pulami.
A. From the information that Sarah gave about her own people, and the fact that the Walkers were connected to her own family line, it seemed to make good sense that Pulami would have been the direct line down into her family tree.

Q. How did she tell you the link was made.
A. Through her mother.

Q. What was the link through her mother.
A. Through the Koolmatrie line.

Q. Can you tell us exactly what that link was.
A. No, not offhand.

Q. How did she express it.
A. That her mother was a direct descendant from King Pulami through the Koolmatrie family.

Q. I thought it was through the Walker family.
A. Yes, well, Koolmatrie/Walkers are the same family. Walker is the anglicised version of the same name. They would have chosen a English name from a property or a family that lived about them, and so the Koolmatries in Goolwa possibly would have adopted the Walker family name, for instance, because they lived next-door to the Walkers, or on that property.

CONTINUED
Q. So, you understood Reuben and Arthur Walker were, in fact, Koolmatries.
A. That is my understanding, yes.
Q. Is that an understanding you had always had.
A. No.
Q. Where did that come from.
A. I understand that from Sarah's - from the information that Sarah had.
Q. What did she have.
A. That Mrs Walker was a Koolmatrie.
Q. Which Mrs Walker.
A. That would be Mrs Reuben Walker.
Q. What information exactly did Sarah have that indicated that.
A. She had a - there was a birth certificate made for her, I think it was her grandmother and that - on that I think indicated her mother - her mother's name. I believe that - without looking at it again, I believe that was the way it was.
Q. Did she show that to you, did she.
A. Yes.
Q. Is that all she had.
A. That's all, yes.
Q. Have you got a copy of that.
A. I would have, somewhere in my files, but I think I put it back in the Walker file, because that was something I didn't have.
Q. I take it you have no problem to showing us that.
A. No, not at all.
Q. You don't mind arranging that with Ms Anderson.
A. Will do.
Q. Did Sarah tell you that she went and got this birth certificate trying to trace her own lineage.
A. Yes, I think she said that she had - what she was doing was trying to establish where exactly she was in the family line and this particular piece of paper had come from that search. And I am not quite sure where that search actually was or who she spoke to. I had no
interest in that, but I was sort of looking forward to
more documentation on that. Whether or not that is
forthcoming, at this stage, I don't know.
Q. Did she say to you that this was something she had only
commenced doing in more recent times. That is, trying
to trace her lineage.
A. She said that it was reinforcing the belief that she had
and I just left it at that. I didn't question her any
more on that.
Q. I just want to ask you a few questions about the visit
to Signal Point, in May 1994. You have already been
asked questions about the letter that was brought, at
that time, even though you say you weren't on the
Friends of Kumarangk Committee. You were no doubt
aware, as everyone in Goolwa was, I suspect, that the
Government deadline was fast approaching in May. That
is, that building was going to commence.
A. Right.
Q. That so.
A. Yes.
Q. It was fast approaching, I think at about 12 May, was it
due to begin.
A. Something like that, yes.
Q. So, there was a lot of activity going on.
A. Yes.
Q. In Goolwa.
A. Yes.
Q. A lot of meetings.
A. Yes.
Q. And so on, and you remember Sarah coming to Signal
Point.
A. Yes.
Q. With a document.
A. Yes.
Q. Just before this deadline -
A. Yes.
Q. Was approaching and, when she came, if I suggested, in
fact, she was with only one other Aboriginal lady, would
that fit with your memory.
2 A. It may account for the trouble I had, trying to recall
3 the earlier question, because it -
4 Q. But, now that I have reminded you that this was just a
5 few days before the deadline, and suggested to you that,
6 in fact, Sarah came with only one other Aboriginal lady,
7 who stayed outside of your office, does that refresh
8 your memory, as to the events.
9 A. No, I'm sorry, no, I can't, I can't -
10 Q. But, in any event, you know Sarah came into your office,
11 with the document.
12 A. Yes.
13 Q. And you said to us earlier that you precised it for her.
14 She wanted your opinion on it.
15 A. The piece of paper I saw, there seems to be a suggestion
16 that there was several pieces of paper. That is not my
17 recollection. My recollection was a piece of paper,
18 with a lot of signatures on it. And I accept
19 responsibility for photocopying it and I really don't
20 want to be evasive here. If I did photocopy it, I did,
21 but I really don't remember actually physically doing
22 That. And, if it had been put together, in some formal
23 way, and I may have done that, I don't know, obviously I
24 was to - it was taped up, or I don't know exactly how
25 that would have been done, to fit the size of the
26 photocopier, obviously.
27 Q. Yes, I was going to ask you about that.
28 A. Yes.
29 Q. Do you think that that is what might have happened.
30 That, in fact, there were two documents or three pieces
31 of paper, but, to get them all on to the one sheet, for
32 the purpose of forwarding on, that you arranged them on
33 the photocopier, so they would all fit on to the one
34 sheet.
35 A. That may have been the case, but I don't actually recall
36 more than one piece of paper.
37 Q. Was it the case that, in fact, if I suggest to you, on
38 my instructions about what happened at Signal Point,
that, indeed, you were in the office with Sarah, for a
good half hour.
A. I wouldn't have been able to spend that much time, at
that hour of the evening.
Q. I am suggesting to you it was after 4 o'clock.
A. Yes.
Q. That, in fact, you were out there with Sarah for quite
sometime, going through this photocopying process. Do
you agree that that might well be the case.
A. I would find that hard to - I would be - find it hard to
understand that, because, knowing the routine we have to
go through and the way we are staffed, I doubt whether I
would have been able to spend that much time with her.
Q. But you knew, from what Sarah told you, that these were
the signatures of a number of Aboriginal women.
A. Yes.
Q. And you knew that this related to the bridge, the
attempt to stop the bridge.
A. I assumed that the document had something to do with
it, because of signatures on the document. But, once
again, -
Q. And this would be the time when it was occurring.
A. That's right. And I could only suggest that I only saw
that document with the signatures on it.
Q. And you told us that you could remember there was a lot
of detail about their belief on the document. I take it
you are there referring to the Ngarrindjeri beliefs.
A. Yes, I am sure that it was a sort of a rambly document.
Q. That referred to more than one topic, would that be
right.
A. Quite possibly. And, once again, that - I wish I had of
taken more attention, at the time. It just appeared, on
that sheet of paper, that there was more names on the
paper than there was actual detail.
Q. But you have actually said you briefly precised it, you
read enough, so that you were able to deduce that it was
about Ngarrindjeri beliefs.
A. Yes, if I can recall a phrase on it, it would have been
something like `the need to protect this site', or
something of that nature.
Q.  `Island' or `Kumarangk'.
A.  It quite possibly would have been.  I don't know, but,
in the terms that it had been - it looked to be a fairly
rough document, that's why I didn't pay much attention
to it.
Q.  And, when you read it, for the purposes of giving Sarah
your opinion, it appeared to you to be in a rambling
writing style.
A.  Yes, but, once again, the opinion that I gave her was
that it looked all right.  I am not quite sure what I
was supposed to have done with it, but there are times
when, obviously, my wife will tell you that I don't pay
much attention to -
Q.  But Sarah, at that stage, had shown a fair amount of
confidence in you, hadn't she.
A.  Yes.
Q.  Because you had made it plain to her that you did know a
lot about the Ngarrindjeri people.
A.  Yes, as a white person, yes.
Q.  As a white person and that you had great respect for
their beliefs.
A.  Yes.
Q.  In relation to the land.
A.  Yes.
Q.  Is that so and it didn't really surprise you that she
would offer you a letter like this with their beliefs in
it for your opinion as to how it presented, in those
circumstances.
A.  Not at all, because, in my capacity as a councillor, I
have a lot of confidences that are given to me by
people.  Those confidences have to be held in very close
care.  And I would see private things that no-one else
would be able to be shown from ordinary members of the
community, because of the respect that I guess long-time
involvement with the community, people see me as that
kind of person.  And, so, this was just another one of
Q. When Sarah gave it to you, she didn't say anything about suggesting that there was a need for you to keep it confidential, what was in it, when you read it.
A. I don't recall that sort of conversation, no.
Q. But do you remember that, in fact, it referred to the beliefs of Aboriginal women, as opposed to the beliefs of Aboriginal men.
A. No, I don't - I don't believe that was the drift of the text. If there was more than one piece of paper, it quite possibly may have, but, as I say, I only actually from my memory recall only seeing one piece of paper with a lot of signatures on it. That obviously indicated, if it was more than one piece of paper, that that was the last piece of paper that I was looking at.
Q. So, certainly you can remember it having detail about Aboriginal beliefs in relation to Hindmarsh Island, but further than that, you are very vague.
A. That's right.
Q. It could very well have been about women's beliefs, but you can't tell us, at this time, is that so.
A. Yes, it could - it could possibly, I am not -
Q. When Sarah came in, you knew, after speaking to her, that she wanted to fax it to the Minister, bearing in mind the date fast approaching for the commencement of the building of the bridge. She explained that to you as being the reason she wanted to copy it and fax it off.
A. In the context of the or the way that the letter was presented to me to briefly look at and obviously the photocopying was needed to keep a copy for their purposes, the next question probably would have been, but I don't recall this, if it was asked was 'Can you fax it away?' And, of course, we can't, because Signal Point doesn't contain a fax. We have access to the council's fax, which is two blocks down the street. And that is the reason why we -
COMSR:    Yes, we have already had this evidence, haven't we, Mrs Shaw?
MS SHAW:    Yes, I don't know that I have actually heard that before.

Q.  But you say that the council's fax is something that you had access to.
A.  Not directly, no, the way that we use it is that, because of the requirement of council, only official documents from Signal Point can actually be sent through it and that is presented to the duty person on the desk.
Q.  Is there another fax machine at Encounter Coast Business Supplies.
A.  I guess there would be.
Q.  Did you, yourself, take the document and fax it to the Minister.
A.  Not at 4 o'clock in the afternoon.
Q.  No, at any time take the documents and fax it to the Minister.
A.  No.
Q.  Are you quite sure about that.
A.  Yes, I am positive.
Q.  I will give you time to think about it.  Are you quite sure that you didn't fax a copy of the document or part of it to the Minister.
A.  No, I am pretty sure that I didn't.  No, I would have - I believe I would recall that.
Q.  You haven't recalled a lot of other things.  Initially you didn't recall that Sarah Milera brought it in, but you obviously recall it now.  Have a think about it.
A.  I would suggest that, if we talk long enough, one's memory can be stimulated, but, no. I don't recall - I don't recall sending a fax in that nature for Sarah Milera from that office.
Q.  You mean, the council office.
A.  Yes.
Q.  But you are obviously not sure, is that right.
A.  No, it is certainly - I certainly wouldn't have sent it
from the council office, because that would have been an
unofficial document and I - that's - that's not the way
the office works.
Q. What about from Encounter Coast Businesses Supplies,
have you ever faxed a copy from there.
A. I don't recall faxing it. I have faxed a document from
there, on one occasion, but it wasn't that document.
Q. What was it.
A. That was a request to Vic Milera - sorry, Vic Wilson in
regard to a planning issue and whether the Lower Murray
Aboriginal Heritage Committee was still, in fact, in
existence.
Q. When was that faxed.
A. That would have been sometime last year.
A. Yes, it could have been, yes.
Q. Or 1994.
A. It would have been 1995, because, at the time that Doug
Milera had - it was quite obvious that Doug was no
longer the secretary, I was required to clarify the
situation as to where planning issues should be referred
in regard to any Hindmarsh Island development. When
Doug was secretary it was a matter of just mailing him,
because we had his address, but when Doug - it was quite
obvious Doug was no longer involved with the Lower
Murray Aboriginal Heritage Committee, I was required to
find out where that - where that authority lay. So, I
faxed Vic Wilson, asking him whether it was he that I
had to refer those sorts of matters to.
Q. But is it the fact of the matter that, at this point in
time, you can't recall, one way or the other, whether
you faxed that document from Encounter Coast Business
Supplies.
COMSR: Which document?
XXN
Q. The document that Sarah Milera showed you.
A. No -
COMSR: With the signatures.
XXN

Q. With the signatures.
A. No, I can't recall that. It is highly unlikely it was that hour of the night and it was that document.

Q. Just to be clear on something, when you have described the letter or the document that you read as being in a rambling style, even though that is what its style was, it read in a way that you could understand it, didn't it. It didn't need you to rephrase it, so that it could be understood.
A. Certainly the sheet of paper that I actually saw -
Q. What, the part that was on that.
A. Yes,
Q. It certainly read lucidly.
A. It was like a couple of phrases in that regard and then the signatures appeared below it.
Q. Yes, but they read quite clearly. You could read it through and understand the sense, that it made sense.
A. Yes, the only thing that I can't recall is actually -
Q. The details of it.
A. What the detail was, but certainly the - I think - the phrase - I believe was one of the phrases was - that was on it was 'an appeal to save those heritage sites'.
COMSR: Do we need to go into that?
A. But I can't say actually that that was Kumarangk, but it could possibly have been. I mean, at this time.
XXN

Q. I suggest you knew very well it related to Hindmarsh Island. You knew very well that's why Sarah was there.
A. No, I don't know that, but it is quite obvious that that could have been the case, because -
Q. You said it was a letter of protest, some sort of appeal. Was there any other protest that Sarah Milera was involved in, at that time, other than Hindmarsh Island.
A. No, I guess they all related to Hindmarsh Island, no matter whose protest there were and there were plenty of them going on. I mean, it wasn't only Sarah Milera and
Kumarangk. I mean, there were a number of protests on, at the time. And I - how many faxes went off to Mr Tickner, I wouldn't know, But -

Q. No, I am talking about Sarah Milera.
A. Right.

Q. Giving you a fax and you telling us that it related to a protest and an appeal and you suggesting to us that you didn't twig that it related to Hindmarsh Island.
A. At the time it - I mean, now it is quite obvious that, if you look back on it, it could quite possibly have been bearing -
CONTINUED
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L.F. TUCKWELL XXN (MRS SHAW)
(MR KENNY)

Q. It couldn't have been anything else, could it.
A. But at that time, what would it refer to? I mean, it could have been any sort of protest on any of the sites, both on the Goolwa side and the Hindmarsh Island side. I am not disputing that it wasn't about Hindmarsh Island. You might be quite right.

Q. What I am putting to you is that you don't want to admit, for some reason, in this commission, that you were well aware that this document that Sarah gave to you was a letter to the Minister in relation to Hindmarsh Island. Isn't that right.
A. What can I say? If the logic of that is brought to its conclusion, it must have been, but I am just saying to you I was not aware of that.

Q. As a man with all this interest in Aboriginal heritage, the Ngarrindjeri nation, Sarah Milera, that didn't click with you until today. Is that what you are suggesting.
A. No, not at all - yes, quite - yes, that's what I am saying. I'm sorry, but I'm following the logic. It's very difficult.

CROSS-EXAMINATION BY MR KENNY

Q. You have told us, I think, that Doug Milera came into Signal Point once, or did you say twice a week. Do you recall.
A. On an average, once a week, yes.
Q. Over what period of time.
A. Over a fair period of time.
Q. What, six months or a year.
A. It was an extended period of time, I guess, initially. It could have been six months, it could have been twelve months, but then they sort of dropped off as they moved around and they had problems.

Q. When he came to Signal Point, would you see him and speak to him.
A. Yes.
Q. So you would say you got to know him fairly well.
A. Yes.
Q. You spent a lot of time talking to him.
A. Yes.
Q. You have talked about Doug borrowing money off of you.
A. Yes.
Q. And the fact that when you discovered that he had a
drinking problem you stopped giving him money, is that
correct.
A. Yes.
Q. But he continued to ask you for money, is that correct.
A. On one occasion, yes. I guess when the first knock-back
come, he didn't ask again.
Q. Did he ask other people, that you are aware of, for
money.
A. Yes.
Q. Did that happen very often.
A. I'm not sure of the frequency, but I know that he had
borrowed from at least two other people.
Q. Are you aware if those other people ever got repaid.
A. Not to my knowledge, no.
Q. You talked about the protest when the STAR force turned
up with the dogs at Goolwa. Do you recall that.
A. Yes.
Q. I take it that was the protest on about 28 October 1993,
when they initially stopped work on the bridge.
A. That's right.
Q. Did you see that protest.
A. Yes. I was present at that and I photographed it and
observed it.
Q. Did you have any concerns at that stage about the police
attitude at that time.
A. Yes, I was concerned, and I raised a question in council
at a subsequent meeting as to the reason why the STAR
force was present with the dog squad, seeing that the
people who were protesting were our own citizens - the
citizens of the town, plus the Ngarrindjeri people of
the area, and none of them, to me, were people who would
have given much trouble in regard to a struggle.
Q. Is it fair to say it looked like a large police
over-reaction to you.
A. I don't - I think it was a miscalculation by the police force. It may have been warranted in the city where possibly - but in Goolwa, I would have thought that that measure was extreme. That was the reason why I raised the question in council, and subsequently had a visit from a police officer from Christies to -

Q. Was that Morrison. Do you recall his name.

OBJECTION Mr Abbott objects on the ground of relevance.

A. No, no, I can't recall his name, but he is a rank officer.

MR KENNY: Yes, it is, I assure you. On my instructions it has relevance on another matter that is not immediately obvious at this stage, and I don't intend to detail it. As for relevance, other things -

COMSR: I think it is fair to say a degree of latitude has been given.

Q. Just so we are clear about this, you are saying that the precautions which the police had in hand seemed excessive to any potential likelihood of trouble. Is that what you are saying.

A. Yes.

Q. You are not suggesting that in fact any problem occurred as between the police and the protesters, are you.

A. No, certainly not.

XXN

Q. Indeed, your concerns about the police presence, is it fair to say their attitude as well, prompted you to go along to the meeting at - I think you referred to the place as - The Pines, with the police.

A. That is correct.

Q. That was on 9 May 1994.

A. That's correct.

Q. In your evidence, you also made mention that when dealing with Aboriginal people, you need to take time and it takes time for them to reach a decision.

A. That's true.

Q. What makes you say that.
A. It is my observation, and I believe it is quite generally found, that their decision-making process is not like the traditional method of decision-making that white people have. For instance, when we make a decision as a council, we make the decision in the chamber on the evidence presented to us. We make the decision and the decision is then carried forward. But within the Ngarrindjeri community the process is reversed. The people who make the decisions are not the people who represent them. The evidence is brought in, those people then go back to their people and a decision is made over a period of time. The representatives then come back and bring the decision with them. So it is the reverse of the way that we make decisions. So that sets up a delay in time, and that's quite often misunderstood by white people as being either a lack of interest or an inability to make decisions, and in fact that is not true.

Q. I take you base that on your meetings, through the council, with Aboriginal groups.

A. That's correct.

Q. Since the ban has been placed on the bridge, has any Aboriginal person suggested to you that there was any fabrication of any Aboriginal business.

A. No.

Q. And in that same time period has any Aboriginal person expressed to you their support for the women's business.

A. Aboriginal person?

A. The only Aboriginal person I have had contact with recently would have been Sarah and Doug Milera.

Q. I note in your meetings since the middle of 1994, you have had dealings with the Lower Murray Heritage Committee people.

A. Yes.

Q. Have any of them expressed to you their support for the women's business.
A. Yes. The thread through those notes indicate that that process of decision-making that I mentioned is in there and -

MR ABOTT: The question is `Have any of them?' The answer is yes or no. And then `Who are they?' This answer is not responsive to the question.

MR KENNY: I am happy with the answer. I have no complaint. If I need anything further I will follow it up with a further question.

COMSR: These are notes that I have in evidence?

MR KENNY: Yes.

Q. You are referring to notes that were earlier tendered in evidence, the handwritten notes that have been tendered. Tell us what was said in those notes.

A. The thread of those notes show that the Aboriginal men were reluctant to make decisions, particularly in relation to Hindmarsh Island. In fact, I think representative Matt Rigney suggests that, and that also indicates the way that I have just described the decision-making process was that they said that, although they were the community's leaders, they had to go back to their people for the decision to be made before they could come back to our council. So also that thread is in those notes.

COMSR

Q. Has any Aboriginal person directly come to you and said that they support the claim of women's business in respect of Hindmarsh Island. I think that was the question that was put.

A. No, and I don't think it was actually necessary to actually express that to me.

Q. There has been no occasion when that has occurred that you can recall.

A. No.
Channel 10 reporting of the interview between Chris Kenny and Doug Milera. Is that correct.

A. That's correct.

Q. You said that Doug appeared, I think if I remember correctly, to be a shadow of himself.

A. Yes, that's correct.

Q. Can you tell us what you meant by that.

A. In the long - the association that I have had with Doug, Doug appears to be a character who is very outgoing, who is very much a strong personality in themself, but in that interview, it didn't seem as though he was there, and his responses tended to be puppet-like, which was unusual for Doug, and I don't know - I couldn't advance the reasons why Doug actually reacted like that, except that he was on his drinking spree once again.

Q. Had you observed him on a drinking spree before.

A. On one occasion, and that was the time when he came to borrow some money off me to get himself - as he said, to borrow some money to get some petrol to go back to Murray Bridge, and he had obviously been drinking at that stage, and that was when I stopped loaning him money.

MR KENNY: I don't wish to take up the commission's time, but I would like to show this witness the raw footage of that interview with Chris Kenny. I don't wish to do it in public. I don't wish to sit through it myself, let alone anyone else. I don't think anyone else has a desire to, but I am enquiring -

COMSR: How much further do you think it would take this witness than what he has already said?

MR KENNY: It is debatable. I am debating it in my own mind as I actually request it. This is the only person we have had give evidence so far that can really say that he had much contact over a long period of time with Doug Milera. We have had a lot of other people express opinions on his state in that interview, including Mr Milera himself.
Perhaps what I might do is ask that I reserve my rights in relation to that, and also the tape recorded telephone conversations with the land owner, Kym Denver. If I reserve the right to perhaps ask that this witness be allowed to view the video tape and listen to the audio tape to see if he can add anything further to his comments. It may not be necessary. If Mr Milera gives evidence, then I think it will become essentially irrelevant, and I will not progress it further. If he doesn't, then I may seek to raise this point again. Perhaps if I could leave it at that.

COMSR: I don't want to leave it too long, but you just wish to mull over the situation, I take it?

MR KENNY: It really depends on what Mr Milera does. We have had this witness's opinion, but only on a short segment some time ago. To be fair, I think we should allow him to listen to the tapes and observe the TV, simply to explore whether he can assist us further. I am not saying he can or he cannot, or whether indeed it will be useful. I would like to simply reserve that question with relation to this witness.

COMSR: All right.

CONTINUED
MR SMITH: Mr Kenny's own clients would probably do a better job than that.

COMSR: You might be in a position to inform us now just of how many of your clients we might expect to be giving evidence, or have you not yet been able to contact them to obtain instructions.

MR KENNY: I can assure you that in the last week, I think I have spoken to all of my clients, I may be wrong, there might be one I've missed, I would have to double check, but I have certainly been in very close contact with my clients recently, and it's a difficult thing for my clients, if I can say that, this witness has told us about the decision making processes of the Aboriginal people. Now my clients have had what may appear to some to be a reasonably long period of time to decide whether they wish to give evidence or not, or what course of action they will undertake. Now perhaps at this stage I could say that I've had some indications from some of them that I don't wish to speak about at the present time, because we have planned in fact a further meeting to discuss that position with respect to the Royal Commission, and I don't wish to mislead your Honour in any way just by saying some of them will be here, and some of them won't, and then have them change their mind at a later date. It is very much up to them what attitude they take, and when I have final instructions on that, I will certainly let counsel assisting know.

COMSR: Have you finished your questioning?

MR KENNY: Yes.

COMSR: Subject to what Mr Kenny has indicated, I think we can release Mr Tuckwell at this stage. Do you have any questions?

MRS SHAW: I'm wondering whether Ms Anderson can liaise with Mr Tuckwell about documents referred to in the evidence.

COMSR: Can the witness be released.

MR SMITH: Subject to that.
NO FURTHER QUESTIONS

WITNESS RELEASED

MR SMITH: The second witness, we may be able to short cut the second witness to some extent, Mr Hook. What I have in mind doing is having Mr Hook acknowledge his statement, tender that, acknowledge the bundle of planning documents that go with it, tender those, issue those to my learned friends and Mr Hook can return to the witness box, and it will to some extent be necessary. Could we at least do that with Mr Hook while people consider their position? To some extent his evidence is formal, but some parts are important which need elaboration. Could we go so far with him?
MR SMITH CALLS            R.G. HOOK XN (MR SMITH)
RODNEY GEORGE HOOK            SWORN
EXAMINATION BY MR SMITH

Q. Thank you for your patience. I think it's the case, is
it not, that you, in October of 1981, were Manager of
the Golden Grove Development, and then shifted, in
October 1981, to become Manager of Central Branch,
Department of Environment and Planning.
A. Yes, that is correct. October 1981 I became Manager,
Central Branch, and then June 1984, Manager, Assessments
Branch within that department.
Q. You're actually a qualified civil engineer, aren't you.
A. Correct.
Q. Indeed, since in particular 1981, you've been involved
in planning, in a sense, have you not.
A. Planning of environmental assessment activities.
Q. I think in particular you were involved
in the applications relating to the developments on Hindmarsh
Island, and in particular the bridge, is that correct.
A. Yes. The applications that were for the initial
development of the marina on Hindmarsh Island, which
date back through 1980, 1981, 1982, I had involvement in
that as my capacity as Manager, Central Branch. The
later applications that involved the bridge and the
environmental impact statement processed through
1989/1990, I was involved in those in my capacity as
Manager, Assessments Branch.
Q. I think in connection with that, those applications,
you've provided a statement to this enquiry to which are
attached a number of documents.
A. Yes, that is correct.
Q. Looking at this statement which I produce to you, would
you have a look at that and confirm that it's your
statement in connection with the long history of these
applications.
A. Yes, that is correct. That's my statement which I've
signed.
Q. I think there's a minor typing error on p.4, is there
not, where we have included, 'On 16 March 1992, Binalong raised a concern concerning vehicle access'. Should that read 1982.

A. I believe so, 1982.

Q. I think that's probably our fault.

MR SMITH: Perhaps we can make a correction on that, on the original, whilst Mr Hook is in the box.

COMSR: Right.

EXHIBIT 191 Statement of Mr Hook tendered by Mr Smith. Admitted.

Q. Looking at the document produced, that was your curriculum vitae as produced to the commission, is it not.

A. Yes, that's correct.

CURRICULUM VITAE ADMITTED AS PART OF EXHIBIT 192.

Q. Looking at this bundle produced to you of 43 documents, and the index on the front, perhaps I will ask you to accept my word that the documents included there conform with the index, but have a look at the index for a start; I think that's a correct list of all the documents that you've referred to in the statement, is it not.

A. I'm happy to provide that confirmation.

Q. To some extent you're reliant on me for that. (NOT ANSWERED)

MR SMITH: I tender that bundle of documents with it's index. XN.

Q. So the Commission has the full original documents, would you just look at each one of these three original documents and identify them for us.

A. Yes. The documents that comprise part of the environmental impact statement process were firstly a draft environmental impact statement prepared by Binalong Pty Ltd in response to guidelines issued by the department. That document was released in November 1989, and that is this document (INDICATES).

Q. You confirm that that's document number 22.
A. That is correct.

MR SMITH: Perhaps you should have the original so that that could form part of the bundle of documents, depending on what you propose.

COMSR: Is that a duplicate of the one that’s just been tendered?

MR SMITH: You have extracts of that in that bundle of documents rather than a full document, so perhaps giving it a separate number might be the safest course.

A. The second document in the sequence of events is entitled ‘A Supplement on a Draft Environmental Impact Statement’. Again this document is prepared by Binalong Pty Ltd. This, in effect, is the opponents’ response to comments made during the public exhibition of the draft environmental impact statement, and they are comments made by members of the public during that process, and also comments provided by government agencies, and this is the document that’s referred to as the ‘supplement’ on the draft environmental impact statement, which is document numbered 27.

MR SMITH: I tender that document also.

COMSR: Are the environmental impact statement and the supplement tendered as two separate exhibits?

MR SMITH: Yes, two separate ones.

COMSR: They don’t form part of the bundle of documents?

MR SMITH: They do, all of these three documents form part of this copy bundle you’ve got, but not in toto. I suggest you mark each one of these separately, so that the first one is draft environmental impact study November 1989, document 22, that was the first one you had.

COMSR: But the bundle of documents hasn’t as yet gone in, the bundle of 43 documents.

EXHIBIT 192 Bundle of some 43 documents tendered by Mr Smith. Admitted.

EXHIBIT 193 Environmental impact statement tendered by Mr Smith. Admitted.
R.G. HOOK XN (MR SMITH)

1. EXHIBIT 194  Supplement to the environmental impact statement tendered by Mr Smith.  Admitted.
2. Q.  The next document then.
3. A.  The third document in the series that comprises the environmental impact statement process is, in effect, then the assessment report for the proposed Hindmarsh Island bridge marina extensions and waterfront development.  This document has been prepared by what was then the Major Projects and Assessment Branch of the Department of Environment and Planning.  It's a document produced in March 1990 and this is, in effect, the department's assessment of the project and the documentation that had been prepared previously by the opponent.
4. Q.  Is that document 29.
5. A.  That is document 29.
6. Exhibit 195  Assessment report for the proposed Hindmarsh Island bridge marina extensions and waterfront development tendered by Mr Smith.  Admitted.
7. COMSR:  In respect of the bundle of 43 documents, Exhibit 192, one of those documents which is document number 17 I believe.
8. MR SMITH:  Yes.
9. COMSR:  I propose to make a suppression order in respect of that document, because it contains somewhat more detail than perhaps the other.  Had you picked that one up?  It's a document dated 29 September 1988.
10. MR SMITH:  We agree with that.  Mr Hook doesn't need to address this, but the document plainly does allude to particular sites and gives some code of identification.
11. COMSR:  It is proposed that that particular document be suppressed, and that distribution be restricted to counsel and legal representatives appearing for the various parties.
Q. Are you able to say whether there are any other documents here that have any degree of particularity in them other than that.

A. There are other documents that refer to Aboriginal heritage issues advice from Aboriginal Heritage Branch to the Assessments Branch.

Q. Which for other reasons might be considered confidential, is that what you're getting at.

A. I wouldn't have thought there'd be any concern from a departmental perspective about any of the comments set out therein.

MR SMITH: We have not identified any others.

I would have thought that some further explanation of the planning process might be necessary from Mr Hook, but could he be released for the time being so that counsel can absorb his statement in conjunction with the documents. Subject to my own view about whether he ought to be recalled just to give you an overview of the planning process at least, so that you can find your way through that documentation much more easily, that may have to happen. Could he be released for the time being to potentially return?

COMSR: Yes, if required by any of the parties.

On that basis you're released on the understanding you may be required at some stage.

WITNESS STANDS DOWN

ADJOURNED 4.40 P.M. TO FRIDAY, 6 OCTOBER 1995 AT 11.30 A.M.
COMMISSIONER STEVENS

HINDMARSH ISLAND BRIDGE ROYAL COMMISSION

FRIDAY, 6 OCTOBER 1995

RESUMING 11.35 A.M.

MR SMITH CALLS

SAMUEL JOSHUA JACOBS SWORN

EXAMINATION BY MR SMITH

Q. I think on 21 December 1993, you were instructed by the Crown Solicitor to make an independent assessment of relevant facts relating to the proposed bridge linking the mainland of Goolwa to Hindmarsh Island, were you not.

A. Yes.

Q. In the course of carrying out that brief, you had occasion to look at certain government files and interview a number of people who had a relevant interest in the construction of the bridge, is that correct.

A. I certainly was provided with a range of government files. I was not, as I understood my assignment, expected to take evidence or hear submissions, but I did indicate that I may wish to speak to some people to if I needed further explanation of matters that appeared in the files, and I had authority to do that.

Q. I think in connection with this enquiry, you've provided a statement to the Commission and, in so far as your statement refers specifically to documents, you have also identified a number of documents relevant to your statement, is that correct.

A. Yes.

Q. Looking at this statement produced to you, do you recognise that as the statement provided to this Commission.

A. Yes. I've perused that statement and acknowledged it.

Q. Also, this bundle of documents are copies of documents referred to by you in the statement.
A. Yes. Those are, as I recall it, all documents which I
saw at the time of my investigation on various
government files.

EXHIBIT 196 Statement and bundle of letters attached
thereto tendered by Mr Smith. Admitted

Q. I think you have a copy of that statement in front of
you.

A. Yes, I do.

Q. Would you please tell us, then, the Terms of Reference
which are were part of your brief to make this
independent assessment.

A. Yes. Might I refer to my statement for that? I haven't
committed them to memory.

COMSR

Q. Yes.

A. My Terms of Reference were, firstly, to review all
relevant South Australian Government files and other
documents to enable a full report to be provided on the
existing arrangements for the proposed Goolwa/Hindmarsh
Island bridge, and/or the proposed marina development on
Hindmarsh Island, involving the Government of South
Australia and Binalong Pty Ltd, Westpac Bank
Incorporation and Built Environs Pty Ltd, who were the
contractors for the bridge, and any other party or
parties. That was one term of reference. Next was to
report on the financial exposure of the State and other
relevant matters arising from such arrangements.
Finally, to report on options open to the government for
the resolution of the present impasse and in the broad
interests of the people of South Australia, and the
financial implication of such options. I would like to
emphasise in that that it was no part of my role to
assess the merits of any decision that had been taken,
or indeed the merits of any opposition to that decision.
It was a purely fact finding exercise, I assume for the
benefit of a new government, to enable them to decide
what they should do in the circumstances which faced
them, but I gave them no advice or expressed no opinion
as to that. It was their decision.

Q. Could you tell us, then, from when you undertook this brief, as it were, took into account or alerted yourself to the circumstances that were prevailing in relation to this matter as in December of 1993.

A. Yes. The background, as I discovered on perusal of the files, was that work on the bridge had in fact commenced, I think in about October of 1993. My recollection is that the contract had, in fact, been let in September of that year following the calling of tenders, I think, in May 1993, but after the work commenced and it was common knowledge, there were protests and pickets on the construction site, and the work was stopped, as I understand, by the minister. By reason of the protests, money was made available for some further archaeological work to be done in order to, I assume, address the opposition that was then being publically expressed. So that was the situation, I think, which the government confronted when it came to power as to how it would deal with that opposition. It was shortly after the election that I was a consultant in the matter. I can give a little bit more of the background as I uncovered it. The actual decision to build the bridge had been publicised, I think, in August 1991 by the then Premier, Mr Bannon, but there were various delays, which I think I need not go into, they are not relevant to this enquiry in any way, by reason of which the contract was not let until almost two years after that.

Q. I think just prior to you embarking on carrying out the terms of your brief, on 9 November 1993 the Department of State Aboriginal Affairs gave construction of the bridge the all-clear, is that correct.

A. That was something that I discovered in the course of my investigation.

Q. I think in your statement you also make the point that, in the course of your investigation, you discovered a
fact which was not well publicised in relation to who
first motivated the construction of the bridge.
A. Yes. It appeared from the documents which I examined
quite clearly that a stipulation that a bridge should be
built was a stipulation first propounded by the
government as a condition of giving planning approval to
further development. In other words, they said that
they would not give planning approval for any further
development on the island unless and until a bridge was
built. I think that was a decision taken by the then
minister who, from memory, I think was Mr Gavin
Keneally, so that in order to get planning approval,
there would have to be a bridge. Do you want me to go
on with the background? I can give you more of it.
Q. Yes, thank you.
A. At that stage, the government said it wasn't going to
build the bridge, it would not pay for it, although it
would defray a part of the cost represented by the
savings on the ferry if the bridge was built. At that
stage, the developers said 'Well, if that's the price of
planning consent, we'll build the bridge', but then
there were supervening events which are not relevant, I
think, to this enquiry, but they were linked indeed with
the financial arrangements which were contemplated by
the developers, which involved the ill-fated State Bank
group, and the upshot was that it was the government who
then said that they would take responsibility for the up
front cost of the bridge. It was not - and this has
not been generally understood - it was not, the
documents make quite clear, to be the developers'
original option; they would have been content originally
with augmented ferry communication, but they had to
agree to the bridge in order to get planning approval.
Q. Could I take you to the structure of your enquiry and
review.
A. Yes.
Q. How did you set about it.
A. I sat down, in a rather lonely state, in an office which
the government provided to me, with a whole bundle of documents, and proceeded to find my way through them.

Q. Were you required to interview people.

A. No, I was not required to interview them but, in fact, I did. It became clear to me that I would have to interview some people in order to address my Terms of Reference. I did receive some unsolicited submissions, mainly by people who wanted to speak to me about the merits or otherwise of the proposal. I simply acknowledged those submissions saying that it was not within my Terms of Reference to express any opinion upon the merits. I did not advertise or call for submissions but, as I said a little earlier, I did myself take the initiative in seeking explanations from some people arising from my perusal of the files. I recall that I had some discussions with an officer of the Department of Transport, I think that's what it was called, I don't now remember his name, on a matter quite unrelated to the terms of this enquiry, and I did interview some other people in relation to other Terms of Reference.

There's a reference in my Terms of Reference, for example, to the Westpac Banking Corporation, and I had to talk to them in order to get some picture of the financial implication, which is a part of my Terms of Reference.

Q. I think, in particular focusing now on this enquiry, you met and spoke with Dr Neale Draper of the Department of State Aboriginal affairs.

A. Yes, I did. I don't now accurately recall whether I saw him at his request, or whether I asked to see him. My belief is, but I would not swear to it, that he asked to see me, but I can say that if he had not asked to see me, I would have asked to see him by reason of the contents of letters that were on the files which I thought called for some explanation.

Q. At least at that juncture in your enquiry, did you take the view that the focus of trouble - not exactly trouble, but problems, was the Aboriginal interests.
A. Well certainly that was one of the sources of trouble, but there was also other opposition which, on the information available to me, appeared to be union oriented. I think that some unions had black-banned the site and were helping to maintain the pickets, but certainly there was Aboriginal opposition.

Q. I think as a result of speaking with Dr Neale Draper, you also conferred with two members of the Lower Murray Aboriginal Heritage Committee.

A. Yes, I did. I had long discussions with Dr Draper, going through the files that I had, some involved his department, but in the course of those discussions, he did tell me that he thought there was some Aboriginals who would like to speak to me, and he thought that they had something of interest to tell me. My recollection is that he didn't tell me what it was or what he thought it was, but in view of the extent of the Aboriginal opposition, although I was not generally, as I say, receiving evidence or hearing submissions, I thought it was appropriate, as requested by Dr Draper, to meet with the two members of the Aboriginal community, and I did so. They came to see me together, and spoke with me for a couple of hours.

Q. I think also you travelled down to the island with an officer of the Department of Transport.

A. Yes, I did. That was merely a familiarisation trip so that I could have a better picture of the original material that I was examining.

Q. Could I ask you now to focus on the documentation that you had at your disposal, or which you identified which related to the Aboriginal opposition to the bridge.

A. Yes. I think the first document in point of time, as I recall it, was the Environmental Impact Assessment and assessment reports which flowed from the original Environmental Impact Statement. They did refer to the Ngarrindjeri people as the relevant community and indeed, as I recall it, the planning approval identified the Ngarrindjeri people as those who would be
appropriate to consult whenever necessary in the course of carrying out the work for which planning approval had been given.

Q. You said earlier, just to take you away from that topic for a moment, that you would have sought out Dr Draper to speak to him had he not sought you out.

A. Yes.

Q. Why would you have done that.

A. Because of the range of correspondence on the files which emanated from the Aboriginal Heritage Branch, and which culminated in the letter of 9 November 1993, stating that so far as the Department of State Aboriginal Affairs was concerned, there was no objection to the bridge proceeding and, in light of those letters, that seemed to me to call for some explanation of the present trouble. When I say `the present trouble', the trouble that had emerged after construction began.

CONTINUED
Q. By `trouble' you are there confining yourself to
opposition from Aboriginal communities.
A. Yes.
Q. Being inconsistent somewhat with the documentation you
had seen.
A. Yes.
Q. The documentation that you mention is, looking at the
bundle which is Exhibit 196, you have a copy of that
bundle I think attached to your statement.
A. Yes.
Q. You made mention, first of all, to the assessment
report.
A. Yes.
Q. Which, of course, is not attached there.
A. Yes.
Q. Then your statement refers to a complaint to the
Ombudsman by Henry Rankine, I think, is that correct.
A. Yes, that was a letter that came to my notice on the
files and it was a letter dated 6 December 1993. And I
found it of interest, because Mr Rankine was the person
who had been referred to in the environmental impact
statement as the person with whom there had been some
consultation at the time that statement was prepared.
But there was now a complaint from him to the Ombudsman,
as set out in that letter.
Q. Then I think there were a number of letters in the files
which you had before you, the files which you examined,
which chronical, if you like, in some sense, various
complaints and clearances that were given with respect
to the bridge.
A. Yes.
Q. Relative to Aboriginal interests.
A. Yes.
Q. I think the first letter you refer to is the 12 April
1990 letter.
A. Yes.
Q. From the Aboriginal Heritage Branch.
A. Yes, I might say, Commissioner, just to put it into
context, that the substance of the complaint that Mr Rankine was making to the Ombudsman in the letter of 6 December was that ‘The Department of State Aboriginal Affairs did not survey’ - these were the words he used in the letter - ‘did not survey the area in order to establish the existence or not of any sacred sites prior to the contract being signed.’ So that it was a letter that referred to sacred sites, yes. Yes, the first letter in point of time that I discovered was a letter of 12 April 1990 from the Manager of the Aboriginal Heritage Branch of the Department of Environment and Planning, which informed the developers, and again I quote from the letter, that ‘No Aboriginal sites of archaeological or anthropological significance will be affected by the development.’

Q. Then the next.

A. Then the next in point of time that I discovered on the files was a letter of 8 May 1992, again from the Manager of the Aboriginal Heritage Branch, this time to the engineering consultants for the bridge construction. A letter which was written following upon a decision that apparently was taken to realign the approaches to the bridge. I have forgotten the street of the first original proposed alignment, but I remember that the change was to Brooking Street.

Q. From Crystal Street.

A. From Crystal Street, yes. And it was in consequence of that change that the letter of 8 May 1992 informed the engineering consultants that there was no known archaeological objection to the realignment of the bridge, that is, to Brooking Street. The next letter in point of time on file was of 20 October 1993. And this, of course, was written at a time after the protests against the commencement of the work had begun and that was a letter from an Aboriginal officer of the Department of State Aboriginal Affairs, Mr Wilbur Wilson, who wrote to an officer of the Planning and Urban Development Department, and again I quote from the
letter, stating that `Members of the Lower Murray Aboriginal communities have expressed concern of the potential impact of the Hindmarsh Island bridge on Aboriginal sites on the island.’ And the letter asks that these concerns be addressed in the proposed supplementary development plan. The letter in terms does appear to contemplate that the bridge would be built, but expressed anxiety about Aboriginal sites on the island. The next letter in point of time was a letter dated 25 October 1993 from Douglas Milera who wrote to the Goolwa Council on behalf of the Lower Murray Aboriginal Committee explaining, and again I quote - or complaining, and again I quote from the letter that `There has been no consultation with us on the proposed bridge at Goolwa and we find that this is a breach of the Aboriginal Heritage Act of South Australia. It is well-documented that there are Aboriginal sites on the proposed development area.' That is all part of the quotation from the letter. So, again, that was a letter raising concerns about Aboriginal sites. On I think the same - the letter I think of the same date, 25 October 1993, from - I will just refresh my memory, if I may, about the authorship of this letter. This I think was from Victor Wilson, who is the - who wrote it as the Chairperson of the Lower Murray Aboriginal Heritage Committee. And that was a letter written both to State and Federal Ministers again expressing concern about the construction of the bridge and referring, in particular, to archaeological sites and the proximity of the bridge to Aboriginal sites which were sensitive.

Q. And the final document was the letter -

A. Then, yes, the letter of 9 November 1993 was the final document. And that was a document written after further archaeological investigation had been done as a matter of urgency following the protests and the picketing of the site. And the letter - I won't read the whole of it, unless you wish me to, Commissioner - but it is a
letter addressed again to the consultants, the engineers who were in charge of the construction. And it identified the investigations that had been taking place in some areas of archaeological sensitivity, but then concluded as follows `With respect to the requirements of the South Australian Aboriginal Heritage Act there are no objections to the bridge construction project proceeding subject to the above conditions and the further requirement that any suspected discovery of Aboriginal sites, objects or remains during the course of the project should be reported without delay to this Department and work in the vicinity of such discovery halted subject to this consultation.’ So, again, it gave the green light to the project, but did indicate that there were some significant archaeological sites which would need to be protected as they emerged in the course of construction.

Q. With that specific documentary background focused upon, you spoke with Dr Neale Draper.

A. Yes, I did, because, on the face of it, in the light of the green light that had been given by the Department, it was not immediately apparent to me why there was continued dissatisfaction.

Q. Your interview with Dr Draper took place in your room.

A. Yes.

Q. That you had been allocated.

A. Yes it did. And did, in fact, on a number of occasions. I think he saw me at least twice. I think the second time I think at his request when he wanted to do some further research before he saw me again.

Q. So, in all, you would have spent how long with Dr Draper.

A. Some hours. Four or five hours, I would have thought, in all. I must say, I think that he did more of the talking than I did, which was unusual.

Q. Could you tell us, I imagine that you, not exactly confronted, but drew Dr Draper’s attention to the state of affairs as the documents had indicated to you.
A. Yes, I didn't confront him in a confrontationist sense, but, of course, I was perplexed by the turn of events in the light of the correspondence that had emanated from the Department. So, in that sense, I did confront him with this and asked `What is it all about?' And he gave me a number of reasons and at some length. I think I can summarise them, as I have done in my statement, but perhaps I should repeat it. He confessed to inadequacies, particularly in the Aboriginal Heritage Branch, in somewhat earlier times. That is the Aboriginal Heritage Branch, which was then a branch of the Department of Environment and Urban Planning. And to inadequacies in the Department of Aboriginal Affairs. He was critical, in other words, of the department for which he was working. He said in apparent defence of the opposition that had emerged that - and by way, I suppose, of some partial explanation of the letters - that there had been inadequate consultation between the archaeological and anthropological consultants whose services were available to the various departments. He said, and I think I could understand why he said it, but he said that the structure and provisions of the Aboriginal Heritage Act of 1988 were unsatisfactory and perplexing and were not really working. And he said that the officers with whom he worked had difficulty in understanding and applying them. And he said finally that there had been inadequate departmental resources of money and personnel. He said quite bluntly that the letter should not have been written in the light of what he then believed to be matters of significance to the Aboriginal community. He said that `We fell down on our job', in effect, and the letter shouldn't have been written. And that is how he - that is the explanation that he gave me. And he did tell me in relation to what appeared to be the archaeological sensitivity of the area that, so far as the Department was concerned, there had been no complaint. They had no complaint against the developers whom he said had dealt in a sensitive and
co-operative fashion with Aboriginal sites on the island. But I have to say that, when I put that to the representatives of the Aboriginal community who asked to see me, they while not emphatically disagreeing, they were not prepared to concede that.

Q. This conversation or this series of conversations with Dr Draper took place, when. Your brief was in late December, wasn't it.

A. I got my brief almost on Christmas eve. I think that I got the files I think before the New Year, but I really didn't start any detailed examination until probably very early in January and I worked daily and I eventually reported early in February and I was, in fact, ready to report a little earlier than that. I can't fix a date. About the middle of January is the best I can say.

Q. Did Dr Draper indicate to you or give you any detail of how significant the island was, from the Aboriginal perspective, in this interview.

A. No, I don't recall him giving me - making any specific claim on behalf of the Aborigines. Although he did, as I recall, indicate to me that he thought that they had something interesting of some importance to tell me, but he didn't tell me what it was. But he did urge me to see them and hear from them direct what they wanted to tell me. But how much of it he knew, I don't really know.

Q. I think you took up that suggestion.

A. Yes, I did.

Q. And was it within a short time that you saw George Trevorrow and Doug Milera.

A. Yes, an appointment was made and George Trevorrow and Douglas Milera came to see me, on their own.

Q. Would that be in January 1994.

A. Yes, it would have been about in mid January 1994.

Q. Can you tell us about the interview. Who of the two did most of the talking or of the three of you.

A. Keep it down to two, at the moment.
Q. Of the two who came to see me, George Trevorrow appeared to be the spokesperson. Douglas Milera did participate, but only in a very limited way and it was George who did most of the talking. I suppose the short answer to your question is George and I did the talking.

Q. Tell us, did George convey to you then -
A. Yes, he did.

Q. The significance of the island.
A. Yes.

Q. From an Aboriginal perspective.
A. Yes, he told me that the area in which the bridge was to be built, that is the Goolwa frontage and the island, had some spiritual significance to the Aboriginal community. He said that the bridge would change the visual and physical character of the locality by linking the bridge to the mainland. Commissioner, I am not putting his precise words, at this stage. This is the substance of what he told me, as I understood it.

Q. By linking the island to the mainland.
A. Yes, it would change the visual and physical character of the locality and that the character of the island as an island would be lost by reason of its linkage to the mainland. And he said that that was really an unacceptable affront to the spiritual identity which the Aboriginal community has with the land of its forebears. In other words, I think it is well-known in part of the Aboriginal culture the way in which they identify with the land. That this had always been an island and it would visually, physically cease to have the character of the island that they identified in a spiritual way.
In addition, of course, he did say that there were site works associated with the construction of the bridge on the mainland, which were likely to intrude into Aboriginal sites of archaeological significance, something of which I was aware from the previous correspondence, but there was nothing whatever in the documentation before me of any - no hint of any objection based upon the spiritual significance of the island as an island, and the effect of the visual and physical intrusion of the bridge upon that Aboriginal perception, and that was a view which, so far as I could ascertain, and I feel fairly confident about it, had not previously been raised on behalf of the Aboriginal communities.

Q. You make mention in your statement of a passing reference -
A. Yes, there was a passing reference in the environmental impact statement to the visual impact of the bridge in aesthetic terms as affecting the island setting, but nothing whatever to suggest at that time that it was of any particular concern to the Aboriginal communities.

Q. I think you then raised with Trevorrow -
A. Yes, I talked - I must say, it was a very amicable and a very friendly discussion, and, having gained, as best I could, an understanding of what they were putting to me, I then said to them - and I suppose this was addressed perhaps to both of them - `Well, this is the first time you've raised this objection. Why haven't you raised it before?' And I referred them to the letters, pointing out that even in the letters all the objections up to that time, and quite recently, had concentrated on the archaeological significance of the area, without any reference to the claim that was now being made to me. I said `Why haven't you raised it before?' Their answer was to the effect that they thought that they would be further consulted about the construction of the bridge, and would have had an opportunity to raise it then. I pointed out to them that, according to the environmental
impact statement, Henry Rankine had been consulted and
apparently saw no problems. I do remember these were
the exact words that were used, although, I can't now
accurately recall whether it was Doug or George who used
them, but they said `Leave Henry out of this'. And I
said `Why?' And I think it was George who said `Because
he wears two hats. He wasn't speaking for the
Ngarrindjeri people. He was speaking for Point McLeay'.
I then drew their attention to the fact that it was as
eyear as October in 1991 that Mr Bannon announced
publicly, in quite a big press announcement, that the
bridge would be built. So that it had been in the
public arena for some two years, and I expressed some
surprise that this claim now advanced to me had not been
raised, more particularly because, I have to say, it
seemed to me to be certainly a comprehensible and
understandable claim, but again they really had no
answer to that, except that they thought that they
should have been consulted. It wasn't for them to air
their grievances until they were consulted. As to the
claim itself, I asked them about the barrage, as to
whether that was a similar affront to the spiritual
identity of the land. Their answer was that the
proposed location of the bridge at the closest point to
the mainland was the significant intrusion upon the
c character of the island as an island, and that was their
explanation.
Q. It is clear from what you have earlier said that Dr
Draper did not convey any such information to you about -
A. No. No, he did not.
Q. Nor did he mention, can I ask you, topics such as the
importance of the meeting of the waters, or any secret
matters such as that.
A. No, there was nothing of that at all.
Q. George Trevorrow and Douglas Milera did not convey, or
did they, any such information to you about women's
business.
A. No, there was not the slightest hint or suggestion of anything of that nature made to me by Dr Draper or by Mr Trevorrow or by Mr Milera.

Q. It was no part, I think, of your instructions from the Crown to really assess the merits of this late claim.

A. No. No, I did not. I wasn't there to express any opinion upon its merits or upon its validity. I simply assumed in my report - I assumed in favour of the two aborigines who consulted me that - I said `Assuming the claim is genuine, although it had not been raised before, it was for the government to assess its weight in considering what options were open to them in the light of the impasse that had developed, but I expressed no views about its validity beyond pointing out, which was obvious, that it had never been raised before.

Q. I think then you had completed your task and submitted your report to the government on 3 February 1994.

A. Yes.

Q. Or to the Crown Solicitor in particular.

A. Yes, that's correct. I did report this claim to the government for its assessment.

Q. Part of your report set out, in effect, what you have told us.

A. Yes. What I have said, commissioner - there was a discrete part of my report headed `Aboriginal Issues'. What I have said really is a summary of that part of my report. Perhaps more than a summary, it is really is a -

Q. I think you had some contact with Professor Cheryl Saunders subsequent to these events.

A. Yes, I did. I cannot accurately tell you when it was, except that it was during the course of her visit here in pursuance of the inquiry which she had been instructed to undertake. She telephoned me at my home one evening. I can't recall what day of the week it was, and we had quite a long telephone discussion for about half an hour. Again, I can't recall accurately
all that was said, but there was very little discussion about Aboriginal issues, as such. Although, I did, I think, explain to her briefly what I have been talking about to you, commissioner, as to the claim that had been made to me. She appeared to be more interested in those parts of my report which have no relevance to that inquiry, dealing with the options that were open to the government and the financial implications of those various options. She needed to gain some understanding of those, and I suppose this was a short-cut for her to gain some understanding of those by speaking to me. She told me that she was going to visit the island, and that she would communicate with me again on her return. But she did not do so. For what reason I know not.

Q. Did you seek to communicate with her again.
A. I don't think so. My hesitation is because I have a vague recollection - but it is no more than that - that I may have rung the hotel where she was staying and had been told that she had left, but I can't swear to that.

Q. In any event, you didn't speak to her subsequently.
A. I didn't speak to her. I just had the one discussion with her for about half an hour over the telephone, and mainly upon topics unrelated to the terms of this commission's inquiry.

Q. It was therefore obvious, was it, that she had a copy of your report to the Crown Solicitor when she spoke to you.
A. I understand she had. I understand that had been provided to her. Although my report had not been, and indeed still has not been, made public, I understand she had been provided with a copy of that report.

Q. Looking at Exhibit 17, the report of Cheryl Saunders, could you turn to p.31 of the report.
A. Yes.
1 Q. You see there paragraph 3.1.3 headed 'Significance of
2 the area as a whole'.
3 A. Yes, I do.
4 Q. You are given a mention there, are you not.
5 A. Yes.
6 Q. I think you would like to make some point in relation to
7 that.
8 A. Yes. I don't know how this came about, but I will read
9 out what the professor has said in this part of her
10 report. She said 'The final aspect of significance of
11 the area, identified also by Mr S.J. Jacobs in his
12 report to the current government, as potentially the
13 most serious, involves the secret knowledge of women'.
14 That is the end of the quote. That is, I have to say,
15 absolutely incorrect. There was nothing whatever in my
16 report or, indeed, in anything I said to her involving
17 any knowledge whatever about the secret knowledge of
18 women, and, indeed, Professor Saunders, I have to say,
19 very properly, in subsequent proceedings before the
20 Federal Court, acknowledged to O'Loughlin J that she was
21 wrong about that. That appears in O'Loughlin J's
22 judgment, that she said that she was simply mistaken to
23 attribute to me any knowledge of the women's business at
24 all. How she came to write that, I do not know. I must
25 confess, I was a bit cross when my attention was drawn
26 to it, because it was simply incorrect.
27 MR ABBOTT: I would like to ask some questions, but
28 I submit I should go last on the basis that those who
29 are most interested perhaps in an adverse sense should
30 go first. I understand Mr Tilmouth would wish to ask
31 questions on behalf of Mr Milera and Mr Trevorrow.
32 MR TILMOUTH: Not on behalf of Mr Milera, of course.
33 Unfortunately, I haven't been able to take instructions
34 in relation to this. I didn't anticipate that Mr Jacobs
35 would be referring to George Trevorrow. I only received
36 the statement, like everybody else, earlier today. It
37 is not that I haven't tried, however. You may have
38 noticed I came in late. I was actually trying to
contact him.

COMSR: Yes, I heard from Mr Kenny there are
difficulties.

MR TILMOUTH: Yes, but he has been ill. He has been
in hospital. I understand the difficulties. I don't
want to delay this witness or the commission. It is
just a practical difficulty. I haven't been able to get
instructions at this stage. I wouldn't anticipate, if
there were to be cross-examination, it would be very
long. While I am on my feet, may I raise one issue?

COMSR: Is that to do with Mr Jacobs?

MR TILMOUTH: Yes, it is. There has been evidence
relating to the report to the government on 3 February,
and I understand from Mr Jacobs that there was a
separate section in that report.

COMSR: You wish to cross-examine Mr Jacobs?

MR TILMOUTH: No. What I was asking was that I
understand the confidentiality of that report for
commercial reasons. I am not wishing to embark upon
that. But given that this matter was apparently pointed
out by Mr Jacobs to the government, I wonder if it would
be reasonable to ask whether that section of the report
could be released, if it didn't otherwise compromise any
commercial situation with respect to the matter.

COMSR: Released to counsel for their perusal,
is that right?

MR TILMOUTH: In some proper way. I am not suggesting
wide public dissemination. But it does seem important
that this matter was apparently relayed. As I
understood Mr Jacobs, he was talking about the concerns
that had been expressed by Mr Trevorrow in particular in
the conversation he had.

COMSR: Perhaps it would be advisable to ask Mr
Jacobs.

Q. In that part of the report, is there any reference to
matters that concern the Terms of Reference of this
commission.
A. What I have said is wholly - I have in effect given the
contents of that part of the report. I mean, I headed
it - I said it was a discrete part of the report. It
was - whatever the paragraph was, I have got it here.
It said `Aboriginal issues', and I simply related in
that part of the report what I have told you, and
alerted the government to the fact of this claim having
been made, and said that it would have to be assessed.
It is not for me to say whether it should be released, I
am afraid, but I can, I think, give this assurance to
you, and indeed to counsel, that there is nothing in
that part of the report that I have omitted in my
evidence to you.

MR TILMOUTH: I am very content with that assurance.
MR ABBOTT: I still submit that counsel for Dr
Draper should go before me, if he wishes to ask any
questions.

MR STEELE: I am quite happy to do that.

CROSS-EXAMINATION BY MR STEELE

Q. Mr Jacobs, is it your recollection that you spoke to Dr
Draper, in a sense, consulting with him rather than
arranging a consultation in early 1994.

A. I am not quite sure that I understand the question. I
certainly spoke to him, but I said I'm not sure whether
he asked to see me or not. I am not sure who took the
initiative, in other words. But I did say if he hadn't
taken the initiative, I would have.

Q. That really wasn't my question, but I will go back to
that question. If I suggested to you that you
telephoned him on 23 December, you would be content with
that.

A. That may well be right, yes.

Q. My question really was that, apart from making that
arrangement, is it your recollection that the
consultation that refers to meeting took place in early
1994, or may it have been in the week between Christmas
and New Year.

A. I don't really remember.
Q. Did Dr Draper speak to you of a survey conducted by him on Hindmarsh Island.
A. Yes, I understood that he had, if not himself, at least been party to the survey that was undertaken, following the protests in late October and early November.
CONTINUED
Q. Your understanding is, isn't it, that there was a survey conducted on Hindmarsh Island at some point between the protests in October and the letter to which you referred on 9 November.

A. My recollection is that the primary area of attention had been on the mainland side, on the approaches to the bridge, but I think that that I was told that, in addition, some areas of archaeological significance had been located near the causeway on the island side of the channel.

Q. Did you have any understanding that Dr Draper had, at the time that he spoke to you, conducted a survey on Hindmarsh Island.

A. On the island itself?

Q. Yes.

A. No.

Q. In your statement, p.1 of your statement, you refer to further investigatory archaeological work being done by Dr Neale Draper, with the sum of $20,000 allocated for that purpose.

A. Yes.

Q. What was your understanding of that survey work. When was it done and where was it done.

A. My understanding of it was that it was done primarily on the mainland in the vicinity of the approaches to the bridge, and not only the actual area of the approach, but adjoining areas as well, on the foreshore.

Q. What was your understanding as to when that was done.

A. Where?

Q. When.

A. Some time prior to the letter of 9 November, which appeared to indicate what the results of that survey had been.

Q. It was for that reason that you thought that the complaint by Mr Rankine and the complaint by the Lower Murray Aboriginal Heritage Committee that there had been no consultation were not fair complaints.

A. I never said that they were not fair complaints, I have
never said that. All I have said was that the letters
are inconsistent with the complaints that were now being
made.
Q. You're quite right. I was referring to the passage at
p.4 of your report, at .5, where you said, in speaking
of the grievance, `Which I found were not supported by
the other documents on departmental files'.
A. That's right.
Q. Did Dr Draper ever indicate to you that the $20,000 sum
allocated for survey work was for survey work which
commenced at the end of November 1993, and some several
weeks after the letter of 9 November 1993.
A. No, I understood that there was a further sum of money
being sought for further survey work. I have, in the
back of my mind, a figure of $30,000 being mentioned,
but I don't recall precisely in what context.
Q. At the time that you saw Dr Draper, you understood that
the survey was incomplete.
A. Yes, and indeed the letter of 9 November indicated that
there may be further areas of sensitivity located which
would have to be addressed as the work proceeded.
Q. Did, for example, Dr Draper, say to you that one of the
problems he saw with the letters from the department, in
particular the letter of 9 November 1993, was that those
letters had been sent before the survey, for which the
$20,000 was allocated, had been undertaken, let alone
completed.
A. No, I don't think, I did not understand him to say that.
He did say to me, quite explicitly, `The letter should
not have been written', and I think he used the word
that they were premature. I don't know that he went
into any more detail than that.
Q. Can you recall now whether he referred specifically to
the letter of 9 November 1993 as the premature letter or
a premature letter.
A. No, but I think it was probably that letter.
Q. It was Dr Draper who suggested to you that Mr Trevorrow
and Mr Milera were keen to see you, wasn't it. You
didn't instigate that.
A. I didn't instigate it, indeed I didn't even know who
they were. He simply said that there were two
representatives of the Aboriginal community who would
like to see me.
Q. He put it in the context that they wanted to see you.
A. Yes, they wanted to see me. I made an exception to my
general policy in their favour. I did not receive
evidence as such from anybody else.
Q. If I suggested to you that you saw them on 12 January
1994, you'd be content with that.
A. Yes.
Q. At the time that Dr Draper made that suggestion, he said
to you that they had something of importance to say to
you.
A. I'm not sure whether he used those words, but he
certainly gave me to understand that he thought I would
be interested in what they had to say, as indeed I was.
Q. At the time that you had your discussions with Dr
Draper, did you make notes of those discussions.
A. I think not, but I can't be certain of it.
Q. At the time that you saw Mr Trevorrow and Mr Milera, did
you make notes of those discussions.
A. Not in the course of the discussion, no, but my
recollection is that I made a memorandum of the
substance of what they told me while - not so much while
it was fresh in my mind, but in the course of my
discussion with them, I wanted to understand clearly
what the spiritual significance was, and I think that I
put to them forms of words which they either assented to
or didn't assent to, and I think I made a note of that
to preserve the agreed form of words in my own mind.
Q. Let's go back to the very beginning. When you had your
first discussion with Dr Draper, whether it was
instigated by you or him, your view was that you needed
to speak to him for an explanation of that department's
documents.
A. I'm not sure when I first spoke to him whether I had
seen all the documents. In fact, I'm certain that I hadn't seen all the documents at that time.

Q. You said at the beginning of your evidence that you would have sought out Dr Draper because of the range of correspondence which emanated from the Heritage Department which culminated in the letter of 9 November.

A. Yes.

Q. So I take it from that that you must have seen at least something at the time that you first spoke to him.

A. You mean when I first spoke to him on 23 December?

Q. Yes, not consequently.

A. It would appear so, but my recollection is that I didn't get the files until about that time, and it may even be that when I was first instructed to do this, that officers of the Crown Solicitor's or the Premier's Department may well have told me that Dr Draper wanted to see me, I don't know. I can't really recall that at all, but I think it's highly unlikely, in fact I'm almost certain that I had not seen all the documents to which I have now referred before Christmas.

Q. In the time that you spent with Dr Draper, the four or five hours in which you spoke, was a significant part of that taken up going through the Dosser documents and getting an explanation as you needed on individual documents.

A. Yes, it was, and he did a good deal of the talking and was, you know, at some pains to explain to me how it came about that, in effect, so many mistakes had been made over the years by the department, and how the interests of the Aboriginals appeared to have been adversely affected by the way in which the department had conducted its affairs.

CROSS-EXAMINATION BY MR ABBOTT

Q. You mentioned to my learned friend, Mr Steele, that in relation to the interview with Trevorrow and Milera, you prepared a memo. Can you tell us where that memo is likely to be found. Do you have a copy of it.

A. No, it was only a very rough note which was subsequently
incorporated into my report. If you like - I have
retained a few papers relating to my enquiry at home,
but I doubt that I retained all my scribbled notes.
Q. A handwritten memo that you wrote doubt.
A. Yes, it was just because, as I explained to Mr Steele, I
wanted to make certain that I understood what they were
saying to me, and I was putting to them a form of words,
which represented my understanding, to see whether I had
got it right, whether they assented to it.
Q. Could you turn to p.5 of your statement.
A. Yes.
Q. You've emphasised that this is, in essence, your summary
of the discussion, but I'd like to ask you whether or
not some of the words that you have said in this
statement, your summary, were in fact, if not uttered by
George Trevorrow, then at least assented to by him as
part of the formula that you were putting to him. The
first relevant sentence is that you said that 'George
Trevorrow told me the land had some spiritual
significance'. Were the words 'spiritual significance'
George's words, or yours, or perhaps both.
A. I can't be certain. I think that if those words were
used by either of them, they would have been used by
Doug rather than by George.
Q. They are not your words, then, in the sense that that
was not a phrase first raised by you.
A. I'm sure the word 'spiritual' was used, that `we have a
spiritual identity with the land', I'm sure that that
was an expression that one or other of them used.
Q. Those words, `spiritual identity with the land', you
have paraphrased by the expression `spiritual
significance'.
A. Yes.
Q. You say that George Trevorrow -
A. I paraphrased it there, but I've used those very words
further down, `It would be an affront to the spiritual
identity that the Aboriginal community has with the land
of its forebears'.
Q. George Trevorrow said that the bridge would change the visual aspect and physical character of the locality.
A. I think I would have to say that that's my paraphrase.
Q. These were the sorts of things that I put to him, is that what you mean, and he would have said yes.
A. These were the sorts of things that I put to him, is that what you mean, and he would have said yes.
Q. But, in essence, you clearly came away from that meeting with the view that what George Trevorrow told you was the linking of the island to the mainland by means of a bridge would, in the opinion of Trevorrow at least, and probably Trevorrow and Milera, change the visual aspect of what you could see, because I assume that arose out of there being a bridge that you could look at and see the island linked to the mainland. It would change the physical character, and do you mean by that what they were asserting was that it would stop the island being an island completely cut off, and therefore island-like.
A. It would change its character as an island, and they identified with that area as being an island.
Q. They identified with that area as being an island, and they identified the necessity that it remain an island.
A. It was part of their heritage and the importance of land in their culture.
Q. In essence, was that, I don't say the wider aspect of the spiritual significance, but was that the particular aspect of spiritual significance that the meeting focused on.
A. Yes, the only aspect of it.
Q. That was nothing to do with women's business.
A. Nothing whatsoever.
Q. Or secret sacred business.
A. No, nothing whatsoever, no mention of any such matter.
Q. Did you mention the barrages.
A. Yes, I did. I put to them that `Didn't that have the same effect of destroying the character of the island as an island', and I think I gave their answer, `Not in the same way', because the bridge was proposed to be built at the closest point to the mainland, and it was that
particular locality which they regarded as being important.
Q. You said at the bottom of p.5 `Their response was words to the effect that the bridge at the proposed location had more visual impact than the barrage'.
A. Yes, they certainly said it was a greater intrusion, and therefore a more effective separation.
Q. More effective -
A. Separation of the island from the mainland.
Q. You used the word `barrage', were you only asking about the Goolwa barrage or were you aware of the other and larger barrages.
A. I think I only asked about the Goolwa. I was aware of the Mundoo and Tauwitchere barrages.
Q. But it was really the one around the corner of the bridge that you were concerned about, the Goolwa barrage.
A. That was the other main sort of link to the mainland.
Q. You used the words `they said' or `they put forward' to you the bridge was a more effective separation. I think you mean link.
A. Yes, a more effective - it was a -
Q. Visually a greater intrusion of the link.
A. It was an obvious separation of the island from the mainland by reason of the more obvious linking of the bridge to the mainland, not a separation. I am sorry, I gave a misleading answer.
Q. A more obvious link and, therefore, to use your words, have more visual impact -
A. Yes.
Q. Than the barrage.
A. Yes.
Q. You were asked some questions about Dr Neale Draper and your discussions with him.
A. Yes.
Q. Did you ask Dr Draper what he had spent the $20,000 on and how he had spent it.
A. No, I think the answer to the question is no, I didn't.
OBJECTION Mr Steele objects.
MR STEELE: Nonetheless, it is an objectionable question.
MR ABBOTT: I don't think it is, but I won't carry it any further in this context.
COMSR: I don't have to rule on the merits of it and I will hear any argument given the answer.
Q. You mentioned your discussions with or telephone call with Professor Cheryl Saunders.
A. Yes.
Q. You mentioned that occupied approximately half an hour and that there was not much of a discussion on the Aboriginal issues which formed s.25 of your report.
A. Para.25.
Q. Or para.25.
A. Yes.
Q. And that the main discussion was, as I discerned your answer, on the financial implications and the other options there were. And she was obviously interested in
finding out, because that was part of her charter, just
what the financial implications were if certain orders
were made by Mr Tickner. In that context of it being
half an hour, about how much time was occupied by her
asking you about Aboriginal issues as distinct from
financial issues.
A. I wouldn't quantify it, but the main purpose of her
call, as I understood it, was to enable her to get a
better perception of the other issues.
Q. You have mentioned that O'Loughlin J referred to
Professor Saunders's comment in her report, at p.31.
A. Yes.
Q. You read out the sentence. You didn't add the footnote
which she gave as support for the comment that she
attributes to you.
A. Yes.
Q. You are able to tell us, of course, it is para.25, which
is the paragraph of your report.
A. Yes, and I have checked the reference that she gave and
there is - it does not support in any way the statement
that she made.
Q. Let me read to you part of the cross-examination of her
on this topic. I take it you haven't read it. You
haven't read the cross-examination.
A. No, I have read his Honour's judgment, or some of it.
Q. Mr Meyer, who was counsel for the Chapmans, asked
Professor Saunders `Why then in that part of your report
did you say that he did', that is `he' meaning you `did
refer to secret knowledge of women?’. And Professor
Saunders answered `I'm really not meaning to say that.
It is a very infelicitously phrased sentence. I think I
was extrapolating from the part of his report where he
refers to allegations which I think were made to him
about the wider geographical significance of the area.’
The answer continues, but just pausing there, have you
told us everything that was said to you about the ‘wider
geographical significance of the area’.
A. Those are her words, not mine, but the geographical
significance of the area to the Aboriginal community was
that of which I have described.

Q. She went on to -
A. I wouldn't call it - it is a matter of geography, but
the stance to the Aboriginal community was not merely a
geographical significance.

Q. She went on to say 'And I am saying that - and he I
think says something about these - maybe more serious,
more something, it is a fairly oblique reference. I
also had a telephone discussion with Mr Jacobs. And I
cannot remember now much of the telephone discussion - I
am sort of inserting into my understanding of what he
meant there either.' I know that either she wasn't
making complete sense, or else she was misrepresented, but
I think the effect of that answer was that she inferred
from what you were saying in your report, at para.25,
the comment that she attributed to you at para.3.1.3 of
her eventual report. If that was the exercise that she
conducted, do you tell us that there was nothing in the
telephone discussion that you had which would, in your
view, have given her grounds to make any extrapolation
or assertion to produce this result in para.3.1.3 of her
report.

A. Nothing whatever. I had no - I don't even know when she
spoke to me on the telephone whether she herself had
been told about the - what has come to be called the
secret women's business. I don't know whether she knew
about it herself or whether she learnt about it when she
went to the island following that discussion. But
consequently I - it may be that, you know, when she did
receive information about that and then looked at my
report that she somehow put 2 and 2 together and made 5.

Q. Do you have the copy of your report with you, the
para.25 of your report to the Government.

A. I don't know if I have got a clean copy. I think I have

Q. Yes.

A. I don't know if I have got a clean copy. I think I have

got my settled copy here.
Q. I don't want you to produce it, I merely want you to look at it as I read to you something that Professor Saunders said about your report.
A. Yes.
Q. Professor Saunders went on to say in justification for the comment in her eventual report attributed to you she went on to say `There is a passage in the Jacobs report where he talks about the', and then she continues `sort of the detailed discussions he had about the significance of particular sites and then refers to a statement that I think seemed to have been made to him towards the end of his discussions with the Aboriginal men. I think that there was also some wider geographical significance.' Did you have any discussions with the Aboriginal men about the `significance of particular sites.'
A. Not particular in the sense that I could identify them physically, but they did, in the course of the discussions, refer to the archaeological areas of significance.
Q. In general terms there being archaeological sites.
A. Yes, and the rough location of them on the approaches to the bridge and I think on the causeway and, indeed, on the island, itself.
Q. Professor Saunders went on to say `I think what I have done is sort of transposed my own understanding of what the men were hinting at.' Did you ever come to the view that the men, in the course of their discussions with you, were even hinting at secret knowledge of women.
A. No, I did not. Indeed, I thought that the claim that they made to me, standing on its own, was a claim that could be readily understood.
Q. And, to be fair to Professor Saunders, I will read out the whole of this section of her answer. Professor Saunders's complete answer on this aspect was `I think what I have done is sort of transposed my own understanding of what the men were hinting at. Namely, that it was - there was wider geographical significance,
because of the women's issue. That's what I was trying to convey.' It is obvious that, from what you have said, but I put it to you, there was no hint of any women's issue.

A. None whatever. I think as I said a moment ago, I am afraid she has put 2 and 2 together and made 5. She has drawn - she has made a - she has drawn, in the light of what she has subsequently learnt, she has read into my report things that were never there.

Q. And made inferences that were, in your view, unwarranted.

A. From my report, yes.

ADJOURNED 1.07 P.M.
RESUMING 2.17 P.M.
WITNESS S.J. JACOBS CROSS-EXAMINATION BY MR ABBOTT
CONTINUING
Q. Exhibit 16 is what we have referred to as the Draper report of 29 April 1994 and I want to show you Exhibit 16, because I don't want to read out a section of it to the public. So, could you look at Exhibit 16, now before you. Were you aware or have you recently become aware of the existence of Exhibit 16, the Dr Draper report of April 1994.
A. `Recently' is the key word. I think probably the day before yesterday.
Q. In your statement, at p.6, which you have given to this Commission.
A. Yes.
Q. You say `I point out that Dr Neale Draper did not convey to me any information about the island being culturally significant because of the "meeting of the waters".' You put that in quotes.
A. Yes.
Q. I apprehend then that it came from Exhibit 16, Dr Draper's report, and I would just like to show you that.
A. That was put to me by counsel assisting the Commission.
Q. I want to show you the matter in full and that is the remaining matter I have to put to you. If you look at Exhibit 16, p.4, para.3.3, it is entitled `The Goolwa channel. The meeting of the waters.'
A. Yes, I see that.
Q. Could you just read to yourself that para.3.3, all of that section.
A. Yes, I have read it.
Q. Did Dr Draper tell you anything of those matters.
A. No.
CROSS-EXAMINATION BY MR MEYER

Q. I just wish to put several questions to you in relation to p.4 of your statement where you deal with Dr Draper. Did you receive copies of the report prepared by Vanessa Edmonds and Mr Lucas in the papers that you looked at.

A. I can't tell you. I think that I was provided with a report. Those names don't ring a bell with me, but I think I was provided with some report of a - of some fairly early report of anthropological studies that had been done.

Q. Did you understand that Dr Draper had been working in the Aboriginal Heritage Branch for some years when you saw him.

A. I don't know whether I had any perception of that at all. I understood him to be either the head of or a senior officer of the branch.

Q. I would ask you to assume that in late 1989 or early 1990 Vanessa Edmonds carried out a detailed archaeological survey of the bridge site and provided a copy of her report to George Trevorrow, amongst other people.

A. Yes.

Q. Did George make any mention of the provision of that report to him.

A. Yes, I think he did. It was in archaeological terms, yes.

Q. Did Dr Draper make any reference to advising Vanessa Edmonds who she should or shouldn't contact in relation to preparing her report.

A. I don't recall any discussion with Dr Draper about that. I am not saying it didn't occur, but I don't recall it.

Q. As I understand it, Vanessa Edmonds was an archaeologist and, in relation to Mr Lucas, I am instructed that he is an anthropologist.

A. Yes.

Q. And he prepared a report in late 1989/early 1990.

A. Yes.

Q. And I am instructed that he provided a copy of his
report to Henry Rankine, Tom Trevorrow and a Mr Robert Day, amongst others. Was there any mention of the fact, by George Trevorrow, that Mr Lucas's report had been disseminated amongst those people.

A. No, not that it had been disseminated, but I think he did mention that there was an anthropological report in existence, as I said a moment ago.

CONTINUED
Q. As I understand the thrust of the matters put to you by Messrs Trevorrow and Milera, and I am looking at the bottom of p.5 of your statement, the location of the bridge was creating a significant visual impact, and that was of importance to both of those gentlemen.

A. Yes, but not only the visual impact. It was its effect as a link between the island and the mainland.

Q. In respect of the initial impact, did either of them enlarge on what was the problem or difficulty with that visual impact.

A. Only it's the way in which it changed the locality in which they say their people identified.

Q. In a letter that was sent to the Department of Environment and Planning, which is part of Exhibit 192, document 33, from the witness, Mr Hook, there is a description of environmental disadvantage. The second to last paragraph of what is said to be background notes says 'The bridge itself will be a massive visual intrusion in the midst of the historic waterfront area of Goolwa and will destroy the presently uninterrupted views from this main tourist focus of the best reaches of the river'. Is that the type of complaint that was being addressed to you by Messrs Trevorrow and Milera.

A. Not in essence, no.

Q. What was the difference between that approach and the visual approach which is referred to in your statement.

A. They did complain about the visual approach, but that was not the main burden of their complaint.

Q. You were seeing Dr Draper in mid January, or thereabouts.

A. Yes.

Q. In your bundle of documents, there is a letter from the Department of State Aboriginal Affairs, dated 9 November. It is the last document in the bundle of letters.

A. 9 November, yes.

Q. Immediately prior to that, I understand that Dr Draper
had in fact been at Goolwa and had expressed the view that work could proceed.

OBJECTION
Mr Steele objects.

MR STEELE: If something is being put to the witness attributable to my client, it should be put in a way that is comprehensible and a proper foundation laid. I object to that form.

COMSR: I think you should find the reference.

MR MEYER: Yes, I will deal with that.

QUESTION WITHDRAWN

Q. On 2 November, Dr Draper informed Tom Chapman that there were no difficulties in proceeding with the excavation and use of the borrow pit area, which was the area that was going to be excavated for the purposes of supplying materials for the bridge. Did Dr Draper make any mention to you that he had given such clearance.

A. No, not that I recall.

Q. I am puzzled by Dr Draper suggesting in January that approval shouldn't have been given, when Dr Draper, in November, appears to be the person responsible for giving approvals. Is that the impression that you had, that he was responsible.

A. I can understand you being puzzled about that. But I am - I don't think that I ever knew precisely what part Dr Draper himself had taken in the field inspections which are referred to in the letter, 9 November 1993. I was never, I think, told explicitly upon whose authority that letter was written, if indeed the field inspections had been conducted by Dr Draper. There might well be an inference that it was written on his authority, but I never drew that inference myself.

Q. Did you understand Dr Draper to be the senior archaeologist referred to in the first sentence of that letter of 9 November.

OBJECTION
Mr Steele objects on the ground witness has already answered question.
A. As I say, I am not sure that I understood that it was Dr Draper himself, or what part Dr Draper had played, except that I knew he had played some part because it was - I had understood from him that he had sought the additional funds so that the work could be done, but who precisely did it, I don't think I knew.

Q. Did you inquire of him what role he had played prior to 9 November in relation to any field studies or work done.

A. I knew he had been involved.

Q. Did you in fact discuss the 9 November letter 1993 with Dr Draper.

A. Certainly.

Q. Is that a letter which he says is one of those that should not have been written.

A. It is.

Q. He said that in January 1994.

A. Yes.

MR TILMOUTH RESERVES THE RIGHT TO CROSS-EXAMINE WITNESS AFTER OBTAINING INSTRUCTIONS.

COMSR: You are released subject to the possibility that you may be required when Mr Tilmouth has further instructions.

WITNESS: I understand that.

NO RE-EXAMINATION

NO FURTHER QUESTIONS

WITNESS RELEASED
WITNESS R.J. HOOK, EXAMINATION BY MR SMITH CONTINUING

Q. Mr Hook, I think you have your statement, Exhibit 191, in front of you.

A. Yes, I do.

Q. The first part of your statement helps us with the changes to names of certain departments. It is a key into the documentation and an explanation of the different labels, if I can call it that, that appear on a lot of the documents. Is that right.

A. That's correct. It seems to be an ongoing role in government.

Q. Could you then just summarise what you have set out for us there to give us an overview of what we need to know to take a grip on the documents that have been tendered through you in Exhibit 192.

A. Certainly, if I can. The initial development proposal involving Binalong on Hindmarsh Island was a proposal that was lodged back in 1980. At that stage, the name of the department was, I think, Department of Housing and Urban Affairs, and subsequently changed to Department of Urban and Regional Affairs. The State Planning Authority was the relevant authority administering provisions under the then Planning and Development Act. It was the State Planning Authority that gave their consent for a change of use for the original development to proceed, and that consent was granted in, I think, May 1981. There was then a transition period which involved the Department of Urban and Regional Affairs then joining with the then Department for the Environment, and that then led to the creation of the Department of Environment and Planning.

The repeal of the Planning and Development Act in November 1992 and its replacement with the Planning Act, and the constitution of an advisory committee on planning to replace or take over from the State Planning Authority, the responsibility for planning policy matters and changes to the development plan, and the constitution of the South Australian Planning...
Commission, which took over the role of the State Planning Authority in deciding development applications, and then we have the South Australian Planning Commission in December 1992 making a decision to grant consent to the first stage of the development previously approved as a change of use by the State Planning Authority.

Q. The application for this development and the way it was handled, in your view, falls into two broad areas: the early application for the marina and how that was handled; and then in 1988, a fresh application or a follow-up application for another extension of the development.

A. Yes, that is correct. The first stage was the application of April 1980, which, as I mentioned, was really to be dealt with by the then State Planning Authority. That was for a first stage marina development and some associated buildings on Hindmarsh Island. That didn't involve any - it wasn't a particularly extensive development. It didn't involve any discussion or debate or inclusion about a bridge as a part of that proposal, and that was granted consent in the early 1980s through a few stages, and that development proceeded during the 1980s.

Q. We will come back to that in a moment. Then the second stage which eventually embraced the bridge was 1988 onward, is that so.

A. That is correct.

Q. Could you just review that for us to give us -

A. Yes. The second stage, which was around 1988, was at a time when there were a number of developers or a number of people who had property on Hindmarsh Island who were looking to put forward development proposals. There was a resistance at that time from the Department of Environment and Planning and, indeed, the Highways Department, to any major or extensive development on Hindmarsh Island that did not take account of the access limitations, and set out to address that issue. We had
a council at that stage which was very keen to see the
access issue to Hindmarsh Island addressed, and so there
were developers and council who were actively seeking to
put forward proposals for development of a bridge or
addressing the access problems to Hindmarsh Island.
Binalong were one of those developers.  Binalong, in
late 1988, started to make application for extending
their development through the planning process, and
there was some work on a supplementary development plan
at that stage, and I think during 1989, that led to a
proposal being put forward by Binalong that they would
actually propose to construct a bridge to Hindmarsh
Island as a part of an approval for a major extension to
their marina development, and that the initial
arrangements for that would be Binalong paying for and
constructing the bridge and seeking reimbursement for
half the cost of that bridge, or $3 million, from the
State Government after the bridge had been completed.
That was presented as a proposal and that was submitted
to cabinet for advice, as whether in principal, they
were interested in that proposal and the advice was,
yes, that is something the government would be
interested in, subject to the proposal being assessed
through an environmental impact statement, and that is
what commenced the environment impact statement process
and the assessment process through 1989 and 1990.
Q. Before we get onto it in detail, the environmental
impact statement process involves what steps.
A. The requirement for an environmental impact statement is
a decision made by the Minister responsible for the
process.  At this stage it was the Minister for
Environment and Planning.  That is at the Minister's
discretion.  That Minister, at that stage, formalised
the requirement for an environmental impact statement.
The Department of Environment and Planning, that
administers the process on behalf of the Minister,
issues guidelines for an environmental impact statement.
That wasn't a statutory requirement.  It was practice.
The steps in the process are for the developer or the proponent to produce a draft environmental impact statement, responding to those guidelines. That document is placed on public exhibition, and during that period comments are sought from the public, and are also solicited from government agencies, and any other party that the assessments branch considered may have a view that was relevant to that process. All those comments, including public comments, were referred through to the proponent, and the proponent is asked to provide a written response to those public comments. The response comes in the form of a document referred to as a supplement to the EIS. That is publicly released. Then the next stage is for the Department of Environment and Planning to prepare its assessment report on the proposal. That report is also published. There is, therefore, three published reports in that sequence prior to a decision being made: The draft EIS, which is the proponent’s report; a supplement, which is the proponent’s response to submissions; and the assessment report prepared by the department. They're the documents that form the decision-making process, which in this case was a decision to be made by the government on advice from cabinet and executive council.

Q. In this particular case, in April 1990 there was a decision taken by the government, in effect, to grant approval.
A. That's correct.
Q. Subject to a number of conditions.
A. That's correct.
Q. I will come back to that in a moment. They are, broadly speaking, the two stages that this developer went through to obtain consent to his development, and the bridge was included, not so much in his development, but in the proposal. Is that right.
A. The bridge was included in the second stage of the proponent's development proposal, and it was an integral part of that second stage. When it was presented and...
assessed in the EIS, the bridge was to be constructed by
the proponent. The only government involvement was some
reimbursement of funds.
Q. That changed, did it not, later in the process.
A. That did change. The consent that was granted
originally in April 1990, was varied on a number of
occasions. There were a couple of changes that were
made to that consent. I think the first one was to
remove the requirement for evidence of funding, and
contractual arrangements to be in place for the bridge
before titles could issue for stage 1. There was
another change that deleted the requirements for a bond
to be established by the developer, which was again an
original condition. Then there were later changes, I
think, moving through into 1992, as a result of
arrangements that were then being negotiated with the
government, which changed the financial terms and the
responsibility for the construction of the bridge.
CONTINUED
Q. Can I take you back, then, so that you can just take us through the documents, to p.2 of your statement, the application itself for development approval by Binalong Pty Ltd, and that is set out, is it not, in document number one, and you've got a copy of the documents.

A. I have a copy of the documents.

Q. So document number one of Exhibit 192 is Binalong's application to the Department of Housing and Urban Affairs.

A. That is correct.

Q. Now that application is an application, is it not, for merely a change of use, is that right.

A. Yes, change of use, use of the land for the purposes of a marina. There is no detail of building layouts or elevations attached to that.

Q. I take it that was because there was a difficulty, or not so much a difficulty, but Hindmarsh Island was not to be used for that purpose on the current regime, is that it.

A. All applications were judged by the relevant planning authority having regard to policies in place in the development plan at the time of this application. The land was designated rural, I believe, and that would have been a significant decision that the State Planning Authority had to make to support this application which was, in fact, for a change of use.

Q. Upon receiving the application of 30 April 1980, certain processes take place, do they not.

A. Yes. The process is then followed through, which is still pretty much the process that would be followed with any application today; once it's received, copies of it are made and are sent to a number of agencies which would have a view on that application, and those comments are sought before it's put to the authority for decision. There are also public consultation requirements today which weren't quite as prominent back in 1980.

Q. Document number two, then, agenda item 4.2.2 dated 9
September 1980, is what exactly.
A. Once the comments are received from agencies, it's the
responsibility of the department administering the
planning process to bring those comments together, and
to prepare a planning report for the decision making
authority. That document two is the report presented to
the State Planning Authority in September, and the
recommendation and indeed the decision of the State
Planning Authority at that stage was to defer its
decision, pending some further evaluation of the policy
implications of this application.
Q. The deferral is communicated to the developer by a
letter there dated 23 September 1980, document number
three.
A. That's correct.
Q. Do you know why it was deferred.
A. Well again, I think it relates to what I mentioned
previously, that the application was contrary to the
policy framework, and there was some further
investigations of that being carried out within the
department, and the authority was keen to have the
benefit of those additional policy investigations.
Q. Documents four and five are, in effect, the documents
amounting to the approval of the State Planning
Authority of the application of April 1980, is that
right.
A. That is correct. These documents are now the new agenda
item written to the State Planning Authority for its
meeting in March 1981, and the outcome of the State
Planning Authority's decision.
Q. The approval for the use of the land for the purpose of
the marina was subject to conditions, is that right.
A. Yes, subject to 11 conditions.
Q. Then the applicant was required to respond to each of
the conditions to the satisfaction of the authority, is
that right.
A. That's correct.
Q. Then I think the next matter that you make a point of in
your statement at p.4 is that on 16 March 1982, the
developer alerted the State Planning Authority to
problems of vehicular access to the island, is that
right.
A. Yes, that's correct.
Q. Is it usual for a developer to do something like that in
the course of an application such as this.
A. Probably the best answer I think would be not unusual.
It's not unusual for developers of major projects to
identify that there are difficulties that they are
experiencing that require attention of government
agencies, and that they should be dealt with by the
government of the day.
Q. By this time, then, was the access problem, vehicular
access to the island, was that exercising the minds of
some of the relevant authorities in any event.
A. Yes, it was an issue even at this stage.
Q. So we're talking about in March 1982, it was an issue
not only with the developer, but with government
agencies and planning agencies.
A. That's correct, yes.
Q. Was that because of other potential developments.
A. I'm not aware that there was the pressure of other
development proposals at that time that there were in
the later 1980s.
Q. This application, and we're still dealing with the
initial application in April 1980, predated the
establishment of the Aboriginal Heritage Branch, did it
not.
A. That's correct.
Q. So, in that period, that is the period leading up to the
establishment of the Aboriginal Heritage Branch, how
were Aboriginal heritage matters addressed.
A. My appreciation is that if Aboriginal heritage matters
were deemed to be an issue, that the consultation in
those days would have been with the museum, and advice
would have been sought from the museum.
Q. As you made clear at the bottom of p.4 of your
statement, it was in late 1981 that the Department of
Environment and Planning was constituted, and the
Planning Act was being drafted to take over from the
then Planning and Development Act.
A. That is correct.
Q. Therefore, document number seven was born, wasn’t it,
being a letter from the State Planning Authority to the
Department of Environment and Planning dated 29 April
1982, advising the department of this application.
A. That’s correct.
Q. The letter sets it out, but there was support for the
development of the marina subject to a number of
conditions.
A. Well, this is providing advice that, by this time, the
State Planning Authority had, in fact, made that
decision, and that the conditions had been identified
and there was an ongoing process of compliance with
those conditions that had to be addressed on an ongoing
basis by the authority.
Q. During this transitional period, what role did the
Department of Environment and Planning retain.
A. The Department of Environment and Planning took over
from the Department of, I think it was Urban and
Regional Affairs immediately prior to the change, and
had the role of the administration of the planning
process originally under the Planning and Development
Act up until November 1982 and, from November 1982, the
administration of the process was set out in the
Planning Act.
Q. Now in the new Department of Environment and Planning,
as had been the case in the previous department, there
was an assessments branch, was there not.
A. The previous department was mainly set up on sectors,
and there were sector managers and the main processing
of the original application had been administered by a
sector manager. The Department of Environment and
Planning introduced branches. There was a central branch that dealt with the planning aspects of the proposal, and there was an assessments branch which was set up in the Department of Environment and Planning from its first days of formation, and that brought into the planning process the assessments branch from the former Department for the Environment. It was heading towards the stage where the Planning Act would, for the first time in State Legislation, specify requirements for environmental impact assessment procedures as part of the planning process.

Q. Turning to document number eight, would you describe that document.
A. Document number eight is a minute -

Q. Sorry, it's July 1982, is that right.
A. July 1982, yes. That is a document written by an officer from the assessments branch. As I mentioned, these were officers who came from the Department for the Environment, and were set up as a branch within the development management division, or the planning division of the newly established Department of Environment and Planning. This officer was writing, through her branch manager, drawing attention to the fact that this development proposal was in existence, there were still aspects that needed to be addressed and raising some concern that perhaps the environmental issues hadn't been adequately addressed in the initial assessment before the State Planning Authority.

Q. There was a decision taken to require the developer to submit a notice of intent, is that right.
A. Yes. That was a standard procedure for requiring more information of an environmental nature on a development application, that a developer is asked to provided that response in the form of a notice of intent.

Q. Turning to document number nine, which is a letter dated 16 July 1982, addressed to Mr Chapman from the Department of Environment and Planning, that encloses the notice of intent, does it not.
R.J. HOOK XN (MR SMITH)

1. A. That's correct.
2. Q. Can you tell us what the notice of intent exactly is.
3. A. It's a format that was used, and again I refer to the
4. fact that this was prior to the operation of the
5. Planning Act, and hence environmental assessment was
6. done under Cabinet directives and guidelines that exist
7. without them having a formal legislative framework. A
8. notice of intent, though, was a form of documentation
9. which was used in environmental assessment practices
10. around the country where developers were asked to
11. provided information on the existing environment, which
12. was the site of the development proposal, and to
13. describe their development proposal and to provide some
14. preliminary information on the assessment of the effects
15. of that proposal.
16. Q. Then document number 10. (NOT ANSWERED)
17. COMSR: Are we going to go through each of the
18. documents?
19. MR SMITH: Yes, we are, quickly and efficiently, I
20. hope.
21. XN
22. Q. Well if you could, rather than me holding you up in the
23. process and ask you questions, could you take us
24. quickly, document by document, to what is the 1988
25. stage, which is the second stage of this developer's
26. proposals.
27. A. Okay, if I can do that. We have identified the fact
28. that there were some concerns raised by the assessments
29. branch with the adequacy of the environmental
30. assessment. A notice of intent was provided, a response
31. was obtained from the developer on that, and that
32. information was then assessed by the assessments branch
33. by reference back to the sector manager or the officer
34. in the central branch who was dealing with the
35. application and, in essence, following that
36. environmental assessment, the advice was that the
37. assessments branch was then satisfied, and that then
38. enabled the advice to be presented to the Planning
Commission which, by December 1982, had been brought into existence, and the Planning Commission received its agenda item. This is now document number 13 and, on that agenda item, the Commission then granted consent for stage one of the development to proceed, and advice to that effect was provided to Mr Chapman in document 14 in January 1983.

Q. There was one condition, if you like, that had to be satisfied, that's addressed in documents 15 and 16, namely the application under the Water Resources Act.

A. One of the conditions of the original consent granted back in 1981 that was carried through and addressed in 1984.

Q. So you summarise that, don't you then, at about .3 of p.7, namely that, 'In summary, the State Planning Authority's approval for the use of the land for a marina was given in 1981, the Planning Commission granted consent for stage one in December 1982, and the conditions attached to that approval were complied with and stage one proceeded.'

A. That's correct.

Q. That brings us then to 1988, which was the second broad stage, was it not.

A. Yes, that's correct.

Q. The developer, in late 1988, raised with you the fact that the development was to be extended, that there was going to be a new proposal, is that right.

A. Yes.

Q. Stages one to six of the marina proposal, and the question of access re-emerged, that is vehicular access to the island re-emerged.

A. The question of vehicular access re-emerged, and also the compliance with the policy documentation in the development plan at that stage resurfaced.

Q. Could you, without me slowing you down, at p.7 of your statement onward, would you take us through the steps, referring to the documents where necessary.

A. Yes. There was initial endeavours, through the planning
process, to have a Supplementary Development Plan
prepared that might provide the framework for this
development proposal. That was running into difficulty
in that the planning authorities were unlikely to rezone
the land, or to come up with any support in a planning
policy document for a major development on Hindmarsh
Island, unless the access issue was addressed. So from
1988 leading through to 1989, and I have already
mentioned there were, through this period, then, a
number of proposals being put forward by different
developers - a council who was very keen to see this
access issue addressed and, in fact, you know, people
talking about having a bridge built and maybe a toll as
a means of funding it and so on - and it was in that
context that the Binalong Development, their proposal
offering to construct a bridge subject to reimbursement
of 50% of the cost, it was in that context that this
proposal was put forward.
Q. Can I interrupt you there for a minute. By this time,
the Aboriginal Heritage Branch had been established.
A. There was an Aboriginal Heritage Branch in the
Department of Environment and Planning at this stage.
Q. Document 17 is, I think, the first document, if you
like, from that branch, is that right, in connection
with this matter.
A. That's correct.
Q. Document 17 is what, precisely.
A. Document 17 is advice from the then manager of the
branch, Bob Ware, to an officer in the planning
division, and that was specifically in relation to the
supplementary development planning process which was
being talked about in late 1988, and providing comments
on Aboriginal heritage matters in relation to the SDP.
CONTINUED
Q. In particular, to Hindmarsh Island.
A. Yes.
Q. The supplementary development plan was considering rezoning parts of Hindmarsh Island for living or tourist development purposes.
A. That's correct.
Q. The requirements or advice from the Aboriginal Heritage Branch were relevant in the sense that that was taken account of by those responsible for approving the supplementary development plan, is that right.
A. They were taken account of by those processing the supplementary development plan. That supplementary development plan never proceeded very far through the process, because it floundered on the limitations on access.
Q. What happened in relation to the supplementary development plan, what was the next step then.
A. The supplementary development plan really didn't proceed further beyond that time. There was an application from Binalong for the extension of their development proposal through stages 1 to 6 and it wasn't supported by the development plan. The access issue was proving to be a fundamental problem and so there was no progress, either with the application or the supplementary development plan, at that particular time.
Q. The further application was in late 1988 and the Aboriginal Heritage Branch was consulted by the planning division in respect of that application, was it not.
A. That's correct.
Q. An archaeological survey of the area was required by the Aboriginal Heritage Branch, is that right.
A. That's correct.
Q. That was a further archaeological survey, was it not, because there had already been one required earlier, that's so, isn't it.
A. I don't believe so. This I think was the initial archaeological survey undertaken by Edmonds. This is the start of the expanded development proposal. There
really wasn't any issues raised, to my knowledge, on Aboriginal heritage matters which the earlier application dealt with in the earlier 1980s. This was the first time there were requirements for attention under the Aboriginal heritage aspects of the proposal.

Q. Then we have included in the documents, at p.19, the Heritage Branch seeking the views of Henry Rankine. It is document 19, letter to Henry Rankine, dated 2 February 1989.

A. That's correct.

Q. By that time, as you make clear in your statement, it was appropriate to contact the local Aboriginal community to seek advice.

A. Yes, that contact was made by the Manager of the Aboriginal Heritage Branch and, as an assessments branch, we would have been relying heavily on the Aboriginal Heritage Branch to follow through on those matters.

Q. Could you pick up the chronology of events then. From then on, what occurred.

A. This is now heading to the stage where the development wasn't really going anywhere under the planning system, because of the access problems. And the access problems not being solved meant that the supplementary development plan wasn't being processed, nor was the application being processed. So, it comes to the stage where there was the suggestion now that we would have a development proposal put forward which would include within it the proposal to construct the bridge. At this stage, the Department or the Assessments Branch was going by the name of the Major Projects and Assessments Branch and this proposal was then classified as a major project to be dealt with by the Major Projects and Assessments Branch.

Q. I think, by that time, as you have made clear in the middle of p.9, the council, district council, had written to the Minister urging the construction of a bridge, is that right.
A. That is correct. The council and a number of other people owning land on the island were very keen to see this issue resolved. And the council was, indeed, making its own initiatives or taking its own initiatives to have a bridge developed.

Q. At that point in time or thereabouts, the developer himself put up a proposal then for the construction of a bridge under certain conditions, is that right.

A. That's correct.

Q. I think that brought into play the environmental impact statement system, if I could call it that, is that right.

A. Yes.

Q. Could you explain that then, what took place after that.

A. Once that proposal was put forward, as officers in Government, we figured we needed to seek cabinet direction on whether the financial arrangements that were being offered were arrangements that the Government would be interested in. That advice was obtained from the Government and the Government supported in principle proceeding with those arrangements subject to a satisfactory environmental impact statement. From that time advice was given to the proponent that there was a requirement to have a draft or to have an environmental impact statement prepared. And that process proceeded from late 1989 through to the completion of the assessment report in March 1990.

Q. In the course of that time, the developer was required to undertake archaeological and anthropological surveys of the area, is that right.

A. That is correct. There was reference made to some of the studies that had already been carried out and requirements for further work to be undertaken.

Q. So, we had a draft environmental impact statement followed by the publication of it, is that right.

A. Yes, the release of that document in November. It was on public exhibition for November and through to December. I think probably a six weeks exhibition
period. And public comments were received in response to that.

Q. Amongst the public reaction to it were submissions received I think from the Conservation Council of South Australia, document 25.

A. That is correct.


A. Yes.

Q. In summary, there was no vigorous opposition to the bridge, is that right.

A. An appreciation and again I would mention that this proposal was being assessed in the context of the follow on on other developments such as Jubilee Point and Mount Lofty cable cars and Sellicks. So, we were dealing with some major proposals that were contentious in the period preceding this. I think we received about 70 submissions on this draft environmental impact statement. I think probably half the submissions or of that order were in favour of the development proceeding.

The submission from the Conservation Council that is tabled in full as one of the items referred to here was not particularly vigorous at all in its opposition. In fact, it was - it would probably even be said that the Conservation Council even, at that time, was not opposed to the bridge proceeding. They rather highlighted in their submissions some concerns that needed to be addressed. But it was not a contentious proposal that was being assessed, at that stage.

Q. As you have said, there was a supplement to the draft environmental impact statement which, as you have said, is the proponents' response the public response, is it not.

A. That's correct. And comments from Government agencies responding to that, as well.

Q. Can I take you then particularly to document 28, which is a letter, dated 16 February 1990, from the Manager of the Aboriginal Heritage Branch in response to the
supplement, is it not.

A. Yes, that's correct. That is the document in response to the supplement and it is still suggesting that there should be some further attention to Aboriginal heritage matters.

Q. That minute from Mr Ware of the branch advised that the archaeological section of the supplement met the requirements, however, while the anthropological studies were mentioned, the recommendations made in that report were not addressed in the supplement.

A. That's correct.

Q. What followed from that then.

A. The completion of the supplement or at the completion of the supplement again that information would be distributed by the Major Projects and Assessments Branch to other Government agencies including the Aboriginal Heritage Branch. That led to the further comments that have already been referred to. And the Major Projects and Assessments Branch then, through that process of on-going consultation, prepares what is referred to as the assessment report, which is a report that tries to bring together the assessment of Government agencies on the development proposal.

Q. Going to document 30, that is an approval from the Minister of Environment and Planning, dated 11 April 1990, addressed to the developer, is that right.

A. Yes, it is the advice to the developer of the approval granted by the Governor and Executive Council.

Q. The conditions are attached to that approval, are they not.

A. Yes, that's correct.

Q. Our document 30 includes those conditions.

A. That's correct.

Q. Can you tell us the Aboriginal Heritage Branch conditions, are they mentioned there.

A. Yes, the conditions and the advice that was being received from the Aboriginal Heritage Branch, at that time, was reflected in the assessment report. And those
same conditions were then carried through into the
consent as condition 2B. And they were mainly
procedural matters relating to anthropological matters
that need to be carried through by Binalong.
Q. The proposal for the development had been approved.
A. Yes.
Q. Which included the bridge.
A. Correct.
Q. And the conditions relating to anthropological matters
did not, I take it, then go to the question of whether
the construction of the bridge could or could not
proceed.
A. No, this concept was granted with an understanding that
those fundamental issues had been addressed. That there
was no reason why the development shouldn't proceed, but
there was some on-site consultation which was suggested
that needed to be followed through.
Q. The conditions, in particular, 2B, deal with that, don't
they, and address themselves to such matters as
consulting be with Aboriginal groups concerning the
discovery of skeletal remains.
A. That's right.
Q. And how to handle those.
A. Yes, really it was to the effect of drawing attention to
the fact that there was an Aboriginal Heritage Branch
and an Aboriginal Heritage Act that had to be complied
with.
Q. Just to make it abundantly clear, there was no
requirement in that approval, then, that the developer
continue to consult Aboriginal groups about whether or
not the development and, in particular, the construction
of a bridge could proceed or not.
A. That is certainly my appreciation.
Q. Document 31, again, could you tell us what that is.
A. Document 31 is an advice from the Manager of the
Aboriginal Heritage Branch to Binalong, again, giving
clearance for the development to proceed, in effect,
under the Heritage Act and drawing the comparison or the
linkage across to the assessment report and the planning conditions that was requiring that there be on-going consultation through the construction stage. But, again, I would cite that as support that it was certainly our appreciation that Aboriginal heritage issues had been addressed to the satisfaction of the Aboriginal Heritage Branch. We are entirely dependent on their advice and, if the Aboriginal Heritage Branch was aware of there being a fundamental problem or a problem, in any sense, at that stage, we would have expected quite different advice from them.

Q. The conditions mentioned therein, namely, authorisation being subject to conditions set out in 4.6 of the assessment report, were conditions you would describe as not going to the heart of the permission to proceed, but procedural matters relating to how you proceed.

A. They were the same procedural matters, which were included as a condition of consent requiring consultation through the construction stage.

Q. We are at p.12 of your statement, I think. Could you then just continue. What followed then, because there was some delay in the development.

A. From the time that the Governor's consent had been granted, in April 1990, we haven't included the details in this statement, but there were a series of negotiations, I guess, between the developer and, then, by this time, the Premier's Department, through the Special Projects Unit of that Department, which were dealing mainly with the financial aspects of the proposal. That led to some changes to the conditions of consent, as I have already mentioned, I believe, two changes were made in succession, both changing the financial arrangements. The first one deleting a requirement for evidence of bridge contracts to be in place before work proceeds on stage 1. The second one deleting a requirement for a $500,000 bond to be established by the developer, prior to work proceeding.

They were both conditions of the original approval.
Q. Going to document 32, which is a letter from the Aboriginal Heritage Branch of the Department of Environment & Planning to contractors Connell Wagner SA Pty Ltd, dated 8 May 1992.

A. Yes, we have come through to 1992, now, where it is getting to the stage where the Government is looking at, in fact, changing the financial arrangements. And it is now being proceeded with by Government agencies, not as a development which Binalong - in which Binalong is constructing the bridge and being reimbursed. But it is now proceeding towards one where the Highways Department is to construct the bridge and be reimbursed by Binalong and other developers. And, hence, we have Connell Wagner, I think, working, at this stage, for the Highways Department, who had also raised or made contact with the Aboriginal Heritage Branch seeking comment on the Aboriginal heritage matters in relation to the bridge.

Q. We see then, in August 1992, which I think is document 32, I think that previous letter from the Minister for Environment and Planning to Mr Chapman, dated 26 August 1992, again setting out conditions of approval.

A. Yes, this again is a change to the conditions from the original approval. And, in this instance, we have quite a significant change, because, at this time, it is now at a stage where Binalong are no longer constructing the bridge. So, it is no longer an approval for Binalong to construct a bridge and carry out extensions to the marina development subject to a number of conditions. This is now a consent granted to Binalong to proceed with stages 2 to 6 of the Marina Goolwa development, subject to a number of conditions.

Q. Do we take it from that, by August 1992, the situation was that Binalong were not responsible for the bridge. And therefore conditions relating to the construction of the bridge concerning, for instance, Aboriginal skeletal remains were no longer a part of the requirements of Binalong.
A. That's correct. I actually make two points on that. At this stage, when these conditions were drafted, and I can recall quite distinctly them being worked through with the solicitors from Crown Law, there were two issues.
CONTINUED
One is exactly as you have said, that the bridge was no longer the part of the consent, therefore, conditions relevant to that and Aboriginal heritage matters relevant to the bridge were no longer an issue for this consent, but rather a matter for the Department of Road Transport to deal with, as they were then the proponent for the bridge. The other point that was being made to us very clearly at that time by the legal advisers in the Crown Solicitor's Office was that the Aboriginal Heritage Act really sat outside of and alongside the Planning Act, and that we shouldn't be placing, within conditions of consent under the Planning Act, procedural matters that are really covered in other legislation, and these conditions were procedural matters which were covered under the Aboriginal Heritage Act and, hence, the advice was they weren't appropriate to be here anyway.

Q. So from August 1992 onward, what happened.
A. From August 1992, which was referred to in document 32 - I might just mention briefly, documents 34 and 35 were further changes to those conditions of consent, in the first instance changing the details of stage 2, and on document 35 it was changing the date or the arrangements for the issue of titles for stage 2, and both those changes were proceeding on the understanding that contractual arrangements were being put in place for the Department of Road Transport to construct the bridge. The other document I referred to, which is number 33, is that we now started, I believe, to get advice from people who were raising concerns about the construction of the bridge. I did make the comment when we went through the environmental impact statement process, whilst there were people opposed, there were as many for the development and it was not a particularly contentious development. This, towards the end of 1992, seemed to be the first evidence of people then expressing concern about the financial arrangements, which had changed quite significantly from the original
approval, but also about some of the environmental aspects of the proposal.

Q. Was it at this stage that there was some legal challenge or some threatened legal challenge to the process.

A. We went through some stages, I think, in the opposition that was being raised at this stage. There were queries about the financial arrangements put in place. There were also concerns expressed about the impact of the development on the physical environment. I think the major issue was how the bridge, if it proceeded, would give ready access to the sensitive conservation areas that are accessed from the south-eastern part of the island, the Murray Mouth and the Coorong waters, and said there were queries being raised whether the environmental assessment had adequately dealt with those issues. In fact, the Environment, Resources and Development Committee of Parliament was then at a stage where it reviewed the development proposal. It started to review, too, terms of reference, that were primarily financial. It then added a term of reference that they should also look at environmental issues during the course of their review. So they were the concerns that were being raised in late 1992 through 1993. I still haven't answered your question, I'm sorry. That then came to item number 38 which was, after we had been through the Environment, Resources and Development Report, and most of the opposition seemed to centre on impact on the physical environment, there was also a stage where a legal challenge to the approval processes was being talked about.

Q. Perhaps we will come back to that. Could I ask you to deal with the committee inquiry, that is, the Environment, Resources and Development Committee inquiry.

A. Yes.

Q. You were involved in that.

A. I was asked to give evidence to that, as the officer responsible for the assessments branch at the time.
Q. That inquiry concentrated on those things you have mentioned, did it not. Those objections based on environmental issues, for instance.

A. The objection is based on environmental issues. I mean, whilst the inquiry was also looking at financial issues, they weren't matters that were raised with me. It was the environmental issues that were being discussed with me, and that covered visual aspects and it covered access to the island from the bridge.

Q. Am I correct in saying that the inquiry that was undertaken then by that ERD Committee was rather late in the day, bearing in mind all the impact statement processes that have been gone through.

A. Yes, it was late in the day. Well after the approval had been granted.

Q. Document 37 is in fact the report of that committee. Is that right.

A. That's correct.

Q. In the end result, what was it that was recommended by that committee.

A. The committee, I think, recommended a review of the government's decision to proceed with the bridge, a review of the financial arrangements associated with the bridge, and reinforced some environmental concerns in much the same manner as had been documented, I might add, in the assessment report, that there should be a management plan for or controlling the activities of people in the vicinity of the Murray Mouth and the Coorong waters. The environmental concerns that were being raised and some of the challenges about the implications of the development for people gaining access to those waters - certainly the feeling of the assessments branch is that, whilst they were valid and there was an issue, people could gain ready access to those waters through a boat ramp on the downstream side of the barrage from the mainland, and that a bridge giving access to an island and a marina development where boating movements were upstream of the barrage, we
didn't see as quite the area of concern that other people were noting at that stage. We were particularly keen to reinforce the conservation status of part of the island, which was the south-eastern part, which is where you would get access to these sensitive waters, and that was reinforced, and we did highlight the need for education and, indeed, I think it even suggested a reserve under the National Parks Act to control the activities of people in those waters may have been appropriate.

Q. Can I take you then to the end of September 1993. Your department received a notice of a legal challenge to the planning approval.

A. There were questions raised about the validity of the planning approvals that had been granted. I think there was a public meeting that was to be convened under a media release that talked about government fudging the planning process. In response to that, we put our approval processes back for review by the Crown Solicitor, and felt that no further action was necessary on our part, and those challenges didn't proceed anywhere.

Q. Looking at document 41, which is a submission made to the State Aboriginal Affairs Minister from the Aboriginal Legal Rights Movement dated 23 December 1993.

A. Yes, I have a copy of that.

Q. You have read that no doubt. I think your position in relation to that letter is that it is incorrect in substance. Is that right.

A. Yes. I wasn't aware of the existence of the letter until the last few days. I must add, having read the letter, I noted that it does make mention of the environmental assessment process. It says in the paragraph that starts at the bottom of the first page 'Neither the draft environmental impact statement, nor the supplement to the draft environmental impact statement in relation to the Hindmarsh Island Bridge, considered the effects upon Aboriginal sites of the
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greater visitor traffic and residential and other
development which would result if the bridge were
constructed'. I think I have made a comment in my
statement that I actually have a problem with that
statement. I mean, the expectation would have been that
the developer would address the impacts of the proposal,
including the impacts of the bridge, and that Aboriginal
heritage matters were addressed in relation to those
aspects. I wouldn't have expected that the developer
should take responsibility to assess the impacts of the
existence of a bridge on other residential development
opportunities that may be created in the future through
actions of government at some future stage to rezone the
development plan and allow for future development. They
would have been matters to have been addressed through
the supplementary development planning process, not
matters that I feel you would have reasonably expected a
developer to have grappled with at the time of this
environmental impact statement.

Q. So, in essence, that comment in the letter of 23
December 1993 of the Aboriginal Legal Rights is
incorrect.

A. I believe so.

Q. Indeed, really the government took over, if you like,
the implications of the bridge construction in this area
in any event.

A. That's correct.

Q. By 1990, is that right.

A. It was more 1992 that changes to the approvals were made
to remove the bridge obligations from the developer.

Q. You elaborate on that at p.16 of your statement, don't
you.

A. Yes, that's correct.

Q. Can I take you then to the question of the supplementary
development plan 1993.

A. Yes. This was a supplementary development plan which
wasn't rezoning large areas of residential - or large
areas of Hindmarsh Island for residential development.
This was, in effect, just putting in place a policy document that was supporting the approvals that had been granted. So it was providing for the approvals of the marina development, and putting a marina zone over the land, that was the Binalong land that had already been approved. It was identifying that there may be further opportunities for residential development at other sites in the future, but they would be the subject of further planning investigations.

Q. Looking at document 40, the letter from Mr Wilbur Wilson to Miss Karen Ferguson, Wilbur Wilson being an officer of the Department of State Aboriginal Affairs, dated 20 October 1993, that letter is relevant to this question of what the supplementary development plan 1993 achieves, isn’t it.

A. Yes, it is relevant. This advice, which is dated October 1993 - again, from my appreciation, this is really the first time that the Aboriginal heritage issue was raised as one of new and increased significance over anything that we had dealt with previously.

Q. That letter is asking that these matters be addressed in the supplementary development plan, but was assuming the bridge proceeding. Is that the way you read that.

A. I think it was drawing attention to - I mean, there is other correspondence that had been sent to the council which had been referred on to us at this stage. I think it was an awareness of the approvals that had been granted, and I think by this stage probably contracts had also been led, but it was raising the Aboriginal heritage concerns at a new level from certainly my appreciation of those that had been dealt with previously.

Q. There is a bundle of correspondence that, in similar fashion, addresses that which is all the documents constituted in document 39. There is a bundle of correspondence.

A. That is correct.

A. Yes.

Q. With an attached copy of s.23 of the Aboriginal Heritage Act, a letter in response, from the council to Mr Milera of 2 November 1993.

A. Correct.

Q. And a letter from Karen Ferguson to the district council dated 9 November 1993.

A. Yes.

Q. You will see in the letter, for instance, from Douglas Milera to the council, there is an allegation that there was no consultation with the Lower Murray Aboriginal Heritage Committee concerning the proposed bridge. Do you see that.

CÓMSR: Which letter are we looking at now?

MR SMITH: We are looking at the letter from Douglas Milera, Secretary of the Lower Murray Aboriginal Heritage Committee to the council.

XXN

Q. Right.

A. Yes, I have got a copy of that.

CONTINUED
Q. Again, you would take issue with that.
A. That is dated October 1993. I must admit, my initial
reaction when I read it was that at this stage the
bridge was, and I think it was being well publicised,
the bridge was being constructed by the Highways
Department, and maybe this was seen as a different
proposal from the one that had been put forward and
assessed previously by the developer, and it did appear
to me that there was some consultation that needed to be
carried through by the Highways Department, that they
were, in fact, putting in place a bridge that had been
previously approved following the consultation that was
carried out during the environmental impact assessment
process.
Q. Finally, on p.17 of your statement, the Supplementary
Development Plan was authorised on 9 December 1993,
that's correct.
A. That is correct. That again was on the understanding
that contracts were in place for the bridge to be
constructed.
Q. Would you describe what happened in terms of how the
Aboriginal community opposition arose in the context of
the overall development.
A. My appreciation, and I would want to make very clear
that I claim no expertise at all in Aboriginal heritage
matters, nor would any of the people in the
environmental assessments branch at the time, that's why
we did have an Aboriginal heritage branch, and our role
- and my officers would have been very dependent on the
advice of the Aboriginal Heritage Branch, and it would
have carried through any advice given to us. My
appreciation in that 1989 and 1990, when we worked
through the environmental assessment process, that
Aboriginal heritage issues were raised as needing
attention. There were reports prepared and that, at the
conclusion of that process, after the further work
requested by the Aboriginal Heritage Branch had been
done, is that there was general satisfaction within the
Aboriginal Heritage Branch that there were no reasons why the bridge and the development should not be able to proceed, and I believe the advice from the branch reflected that, and that was even followed through and reaffirmed, I think, over the next year or two. Indeed, my appreciation would have been that if the financial arrangements existing at the time had been such that the bridge had proceeded to construction soon after that approval, that those works may well have proceeded with this still being viewed as a positive development in the minds of a lot of people. That's my appreciation of what we were dealing with on an environmental assessment process. It was quite different to other more contentious developments that had been assessed at around that time. With the passage of time and the change of the financial arrangements, it became apparent to us, in government departments that there were new concerns being raised towards the end of 1992. They were being raised with a degree of vehemence, I guess, that hadn't been the case two years earlier. There were challenges to the financial arrangements which really did not affect us within the Department of Environment and Planning; those arrangements were matters being negotiated through the Premier's Department with the government, there were concerns raised about the environmental impact of the bridge that were reflected through the environment resources and development committee stage of the review, concerns raised then about the legality of the process, and even in those phases, which go through to about August 1993, I was still not aware, nor had anything been raised with us, about Aboriginal concerns. Aboriginal concerns first surfaced around October 1993.

Q. And became the prime concerns from thereafter.
A. As it appears, yes.
Q. The last document in your bundle of documents is a final report, document 43, Hindmarsh Island Bridge Environmental Issues and Options, Natcom Land
TN 40K
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Development Services May 1994'. What is that document.
A. The Environmental Resources and Development Committee of
the management of land in that area, and there was also
a recommendation in the assessment report, this was when
the Department of Environment and Natural Resources
constituted a committee and then engaged one of their
officers, or asked one of their officers to prepare a
report and make representations primarily relating to
the management of the land in the Lower Murray lakes.

CROSS-EXAMINATION BY MR PALYGA
Q. In 1989, you were the manager of the assessments branch.
A. That's correct.
Q. Mr Ware was the manager of the Aboriginal Heritage
Branch.
A. That's correct.
Q. Both separate branches of the Department of Environment
and Planning.
A. That's correct.
Q. You've provided us with a couple of documents, and
there's a memo to Mr Cooper from Mr Ware dated 27
January 1988, which refers to referring proposals to the
Aboriginal people at Point McLeay with respect to their
impact on the traditional significance of the island to
Ngarrindjeri and Ramindjeri descendants, it's document
number 18, and you've also provided us with a document
number 19, a letter to Mr Henry Rankine dated 2 February
1989, haven't you.
A. Yes.
Q. Mr Chapman has given evidence to the Commission that he
was told by the Aboriginal Heritage Branch, in mid 1989,
to consult Henry and Jean Rankine with Aboriginal
heritage matters. Do you know, of your own knowledge,
whether or not, at the time, they were the relevant
people to consult.
A. I don't know, I couldn't answer that question. Any
advice on who was relevant to consult would have been
advice provided by the Aboriginal Heritage Branch, and I
1 wouldn't presume to have any expertise on that.
2 Q. Were you aware of Mr Rankine in 1989.
3 A. I'm certainly aware of the name now, and I assume I was
4 in 1989.
5 Q. I'd like to take you forward to the letter from Ms
6 Lenehan of April 1990, which is document number 30, and
7 which you’ve described as a letter dated 11 April 1990.
8 Would you agree with me that the original signed copy of
9 that letter is in fact dated 12 April 1990.
10 A. I'm not sure. It would have been reflecting advice or a
11 decision of Government and Executive Council which would
12 have been made on a particular Thursday.
13 Q. Would it assist you to know that 1 April 1990 was the
14 Thursday before Easter in 1990.
15 A. I would have envisaged that the decision then had been
16 made on that Thursday which would have been -
17 Q. Is it logical to assume that it was 12 April, given that
18 your next document, which is document number 31, the
19 clearance dated 12 April 1990 from the Aboriginal
20 Heritage Branch.
21 A. I don't think the clearance dated 12 April is
22 particularly relevant. It would have been the decision
23 taken by the Government in Executive Council that would
24 have been relevant and, as you would appreciate, the
25 process is that a decision such as that goes through
26 Cabinet on the Monday, and then endorsed by Executive
27 Council on the Thursday, would be normal practice. All
28 the documentation for the minister to sign, if that
29 approval went through, would have been with the minister
30 during that period.
31 Q. You would be aware of some confusion as to whether or
32 not what's been provided as the conditions of approval,
33 i.e. the attachment to the letter signed by the
34 minister, document number 30, are the actual conditions
35 attaching to the approval. Are you aware of some
36 confusion about that and, in particular, some
37 correspondence with Professor Saunders last year about
38 the matter.
A. I'm not aware of specific correspondence with Professor Saunders. There is no doubt in my mind that they are the conditions attached to the approval. I'm aware that there's been some comment made that those conditions were included or attached to the letter that was sent to the Chapmans.

Q. Are you aware, of your own knowledge, whether or not they were attached to that letter.

A. I certainly believe that they would have been but, you know, the process would have been that that would have been sent from the minister's office, and we would have expected that the minister's office would have included the conditions that had then been approved by Executive Council with the letter. In support of the statement I said that I believed they would have been. There are other conditions in there relating to, for instance, the $500,000 bond which were then, through consent negotiations, even over the next couple of months changed, and there was certainly an awareness of those conditions.

Q. I take it from what you've said that you can't personally say, but you believe that those conditions were attached to the letter, is that what you're saying.

A. That's a correct way of putting it.